CALIFORNIA HORSE RACING BOARD - RULES NOTICED TO THE PUBLIC:

NOTICE OF PROPOSAL TO AMEND AND REPEAL

Title 4, Division 4, California Code of Regulations

AMEND:

Rule 1420. Definitions

Rule 1615. Scale of Weights for Age

REPEAL:

Rule 1616. Minimum Weights to be Carried

Rule 1684. Items Included in Weight

The California Horse Racing Board (Board) proposes to amend and repeal the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1420, Definitions, and Rule 1615, Scale of Weights For Age, and repeal Rule 1616, Minimum Weights to Be Carried, and Rule 1684, Items Included in Weight. Rule 1420 provides definitions of terms related to horse racing. Rule 1615 sets forth the scale of weights to be carried if the conditions for a race do not specify otherwise. Rule 1616 states the minimum weights to be carried in various types of races. Rule 1684 lists items to be included in a jockey's weight. The proposed amendment to Rule 1420 would delete subsection (aa), which defines "weight for age." The proposed amendment to Rule 1615 would replace the scale of weights for age with new minimum jockey weights, and introduce minimum body fat content requirements for male and female jockeys. In addition, the proposed amendment requires that all horses carry ten pounds of riding gear from withers to rump, defines riding gear, and requires that the official program announce the jockey's actual weight, the weight of the riding gear, and any additional weight. The proposed amendment to Rule 1615 also provides an optional 24-month period of compliance with body fat requirements for any jockey licensed in the United States before December 31, 2004. Rule 1616 would be repealed due to the new jockey weights proposed under Rule 1615. Rule 1684 would be repealed as the proposed amendment to Rule 1615 defines most of the items in Rule 1684 as "riding gear" rather than items to be included in the jockey's weight. The remaining items in Rule 1684 are not considered riding gear or part of the jockey's weight.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:30 a.m., Thursday, April 28, 2005, or as soon after that as business before the Board will permit, at the Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m.** on **April 25, 2005**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone (916) 263-6397

Fax: (916) 263-6041

E-mail: HaroldA@chrb.ca.gov

AUTHORITY AND REFERENCE

<u>Rule 1420</u>: Authority cited: Sections 19440, 19562 and 19563, Business and Professions (B&P) Code. Reference: Sections 19401(e) and 19420, B&P Code.

B&P Code Sections 19440, 19562 and 19563 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19401(e) and 19420, B&P Code.

<u>Rule 1615</u>: Authority cited: Section 19420, B&P Code. Reference: Section 19562, B&P Code. B&P Code Section 19420 authorizes the Board to adopt the proposed regulation, which would implement, interpret or make specific Section 19562, B&P Code.

Rule 1616: Authority cited: Sections 19562 and 19590, B&P Code.

Rule 1684: Authority cited: Sections 19481 and 19562, B&P Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business & Professions (B&P) Code Section 19420 provides that jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings is vested in the California Horse Racing Board. B&P Code Section 19440 states that the Board shall have all powers necessary and proper to enable it to adopt rules and regulations for the protection of the public and the control of horse racing. B&P Code Section 19562 provides that the Board may prescribe rules, regulations and conditions, consistent with the provision of this chapter (Chapter 4) under which all horse races with wagering on their results shall be conducted in this State. B&P Code Section 19563 provides that the Board may adopt any rules and regulations of the United States Trotting Association, not inconsistent with this chapter (Chapter 4) for the regulation of harness racing. B&P Code Section 19590 provides that the Board shall adopt rules governing, permitting, and regulating pari-mutuel wagering on horse races under the system known as the pari-mutuel method of wagering. B&P Code Section 19481 requires the Board to establish safety standards, governing the uniformity and content of the track base and racing surface, inner and outer rails, gates and gaps, turf, access and egress to the track, lighting for night racing, equipment for horse and rider, drainage, communications, veterinary services, medical and ambulance services and other track facilities in order to improve the safety of horses, riders and workers at the race track. B&P Code section 19401(e) states that the intent of Chapter 4 is to provide uniformity of regulation for each type of horse racing.

The Board proposes to amend Rule 1420, Definitions, by deleting subsection 1420(aa), which provides a definition of "weight for age." Weight for age is the standard weight to be carried by a horse according to the scale established by the Board's rules. The proposed amendment to Rule 1615 replaces the scale of weight for age with minimum jockey weights. Adoption of the proposed amendment to Rule 1615 would make subsection 1420(aa) unnecessary.

Rule 1615, Scale of Weights For Age, provides the scale of weights for age to be carried by a horse if the conditions of a race do not specify otherwise. The proposal to amend Rule 1615

would replace the scale of weights for age with minimum jockey weights. Subsection 1615(a) provides that every horse shall carry 10 pounds of riding gear from withers to rump. The subsection also defines "riding gear" by listing the items that are included in the 10 pounds. Riding gear is composed of items that jockeys routinely use when riding in a race. The proposed amendment separates riding gear from the jockey's weight so the public will be more fully informed regarding the weight carried by the horse. Rather than include riding gear in the jockey's weight, as is the current practice, such gear will be a separate, constant weight carried by every horse. In addition, separating riding gear from the weight of the jockey provides a disincentive for riders who may alter critical safety gear to make weight. The temptation to remove the lining of safety vests or helmets will be eliminated.

Subsection 1615(b) requires the official program to include a notice that states in addition to the listed jockey weight, all horses carry 10 pounds of riding gear. The official program must also include any additional weight carried (in cases of underweight and handicap races). (A "handicap race" is a race in which competing horses are assigned weights to carry which, ideally, will equalize their chances of winning.) This will ensure the public is fully informed regarding the weight of the riding gear a horse will carry in a race.

Subsection 1615(c) defines jockey weight. The jockey is weighed nude, as the jockey's clothing is included in the 10 pounds of riding gear, and is a separate weight under subsection (a). Jockey weight also excludes any additional clothing. If a jockey chooses to wear a robe while being weighed, the weight of the robe must be deducted to arrive at the nude weight. Jockey weights are listed in the official program. By listing nude jockey weights racing fans will know the true weight of the jockey. Under subsection 1615(c) the clerk of scales is responsible for weighing the jockey. This is current practice.

Subsection 1615(d) provides the minimum weights for jockeys. For a jockey riding an Arabian or a Thoroughbred horse the minimum weight is 116 pounds. The minimum weight for a jockey riding an Appaloosa, Paint, Quarter Horse or mule is 121 pounds. The minimum weight in handicap races shall be no less than 112 pounds. These weights do not include the ten pounds of riding gear, or any additional weight. The minimum weights represent a compromise between the Jockeys' Guild (Guild) recommendations and the recommendations of racing associations and horsemen's organizations. To arrive at its recommended weights the Guild interviewed over 200 jockeys nationwide to determine what their weight would be if they did not diet or engage in other activities to make weight. The Guild reported three quarters of the jockeys interviewed indicated 118 pounds would be their normal fit weight. It also recommended a 123-pound minimum for jockeys riding breeds other than Thoroughbred and Arabian horses as such breeds have a traditional 5-pound heavier weight allowance. Other segments of the industry believed the Guild's recommendations would be detrimental to California horse racing, so a compromise was reached that would be acceptable to all parties.

Subsection 1615(e) states nothing in Rule 1615 will affect or alter apprentice allowances. Allowances are weights or other conditions of a race. Apprentice allowances provide for lighter weights to be carried by an apprentice jockey to "even the odds" when racing against more experienced jockeys. In providing for new minimum jockey weights, it was not the intention of the Board to change such apprentice allowances.

Subsection 1615(f) requires that male jockeys maintain a minimum body fat content of not less than five percent, and a female jockey shall maintain a minimum body fat content of not less than ten percent. A jockey will be placed on warning and suspended after three calendar days of the date of the warning if his body fat content measures below one percent of the minimum level.

If a jockey's body fat content measures more than one percent below the minimum standard, he shall be disqualified from riding in any race. Body fat measurements will be conducted and recorded by the clerk of scales on each race day. The minimum body fat requirements were proposed by the Guild. The Board, the Guild and the racing industry are concerned with the effects of years of self-abuse many jockeys put themselves through to maintain a low body weight. It is not uncommon for jockeys to sit in sweatboxes for hours at a time, take diuretics, self-induce vomiting, or indulge in any number of unhealthy activities to make weight. As a result, jockeys suffer dehydration, malnutrition and diminished immunity. community has a high incidence of infection, which is a direct result of its poor nutritional status. The jockey community has ten times the national incidence of chronic kidney failure and five times the overall incidence of upper respiratory tract infections, bronchitis and pneumonia. To arrive at the minimum body fat requirements, the Guild surveyed standards for other professional sports as well as collegiate sports. The range of standards for such sports bodies was between 20 percent and five percent. After determining that the best analogy for professional jockeys was a cross between cyclists and gymnasts, the Guild settled on the requirements of professional cyclist and gymnast bodies wherein none of their players could perform with a total body fat of less than five percent. Currently, it is not unusual for a jockey to have a total body fat content of less than three percent, and the Board recognizes that despite the new minimum weights, many jockeys will continue to struggle to maintain weight. Under the proposed amendment to Rule 1615 jockeys occasionally may have total body fat measurements below the minimum level. If a jockey's total body fat measures below the minimum level, he will be placed on warning and given three calendar days to reach the minimum level. The Board does not wish to penalize jockeys whose body fat may be below the minimum, but still within an acceptable range. However, body fat below the minimum levels is unhealthy. At certain levels of body fat, the body begins to cannibalize itself. Under subsection 1615(f), a jockey whose total body fat content measures more than one percent below the minimum level shall be disqualified from riding in any race. Disqualification provides incentive for the jockey to gain a healthy rate of body fat, and protects the health and safety of other riders. Subsection 1615(f) requires the clerk of scales to record a jockey's total body fat measurement once each race day. The clerk of scales is the official who weighs jockeys in and out, and is the logical person to measure jockeys' body

Subsection 1615(g) states commencing with the effective date of the regulation, compliance with subsection (f) is optional for 24 months for any jockey licensed in the United States before December 31, 2004. This provision was included to provide a transition period for older jockeys who are used to a system wherein they abuse themselves to maintain low weights. Such jockeys might have problems accepting the new guidelines.

The Board proposes to repeal Rule 1616, Minimum Weights to Be Carried. Rule 1616 provides the minimum weights to be carried in all overnight races for two year olds only, for three year olds only, and for four year olds only and upward. In addition, the rule provides the minimum weights to be carried in all races except handicap and stakes races. The proposed amendment to Rule 1615 provides new minimum jockey weights, which would cause Rule 1616 to be redundant.

The Board proposes to repeal Rule 1684, Items Included in Weight. Rule 1684 lists items included – as well as items not included – in a jockey's weight. Most of these items are defined as "riding gear" under the proposed amendment to Rule 1615; none of the items are considered part of the jockey's weight. This would make Rule 1684 unnecessary.

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1420 and Rule 1615, and the proposed repeal of Rule 1616 and Rule 1684, will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: A one time cost impact of approximately \$100.00 per racing association may be incurred in reasonable compliance with the proposed amendment of Rule 1615. Regarding the proposed amendment of Rule 1420 and the repeal of Rule 1616 and Rule 1684: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1420 and Rule 1615, and the proposed repeal of Rule 1616 and Rule 1684, will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1420 and Rule 1615 and to repeal Rule 1616 and Rule 1648 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. Rule 1420 provides definitions of horse racing terms, Rule 1615 sets minimum jockey weights; Rules 1616 and 1648 would be redundant.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to

Harold Coburn, Regulations Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825

Telephone: (916) 263-6397 E-mail: <u>HaroldA@chrb.ca.gov</u>

If the person named above is not available, interested parties may contact:

Pat Noble, Regulations Analyst Telephone: (916) 263-6033

Jacqueline Wagner, Manager Policy and Regulation Unit Telephone: (916) 263-6041

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION.

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed texts of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact persons at the address, phone numbers or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed texts, the modified texts – with changes clearly marked – shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulations in their current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed texts of the regulations, and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

Rule 1420. Definitions

Rule 1615. Scale of Weights for Age

Rule 1616. Minimum Weights to be Carried

SPECIFIC PURPOSE OF THE REGULATIONS

The proposed amendment to Rule 1420 would delete subparagraph (aa). The subparagraph currently defines the term "weight for age" and would be unnecessary if the proposed amendment to Rule 1615 were adopted. The proposed amendment to rule 1615 would replace the current scale of weights for age with new minimum jockey weights. The minimum weight for a jockey riding Arabian or Thoroughbred horses would be 116 pounds. The minimum weight for a jockey riding a Paint, Quarter Horse or mule would be 121 pounds. The minimum weight for handicap races would be 112 pounds. In addition, the proposed amendment to Rule 1615 would require that every horse carry ten pounds of riding gear. The proposed amendment defines riding gear and requires that the official program state that in addition to the listed jockey weight, and any additional weight, each horse carries ten pounds of riding gear. The proposed amendment to Rule 1615 provides new minimum body fat requirements for California jockeys. Male jockeys must maintain a minimum body fat content of five percent, and female jockeys must maintain a minimum body fat content of ten percent. A jockey whose overall body fat content is one percent below the minimum shall receive a warning and be suspended from riding if he does not meet the minimum body fat requirement within three calendar days of the date of the warning. A jockey whose body fat content is more than one percent below the minimum shall be suspended from riding any horse. Jockeys licensed in the United States prior to December 31, 2004, are not required to comply with the minimum body fat requirements for 24months after the effective date of the regulation. Nothing in Rule 1615 would affect apprentice jockey allowances. Rule 1616 currently provides the minimum weight to be carried in overnight races for two-year-olds only, three-year-olds only, and four-year-olds only and upwards and the minimum weight to be carried in all races except handicap and stakes races. If the proposed amendment to Rule 1615 were adopted, the provisions of Rule 1615 would be unnecessary. Rule 1684 currently lists items to be included in the jockey's weight. The items listed in Rule 1684 are included in the text of the proposed amendment to Rule 1615 and are not considered when determining jockey weight.

NECESSITY

In March 2004 the Jockeys' Guild (Guild) proposed amending California's jockey weight allowances. In addition, the Guild made a proposal for the introduction of minimum body fat allowances for jockeys. The Guild's representatives talked about the adverse health effects many jockeys suffer as a result of constant efforts to lose weight. They stated the current scale of weights must be changed for reasons of health and safety.

The Board proposes to amend Rule 1420, Definitions, by deleting subsection 1420(aa), which provides a definition of "weight for age." Weight for age is the standard weight to be carried by a horse according to the scale established by the Board's rules. The proposed amendment to Rule 1615 replaces the scale of weight for age with minimum jockey weights. Adoption of the proposed amendment to Rule 1615 would make subsection 1420(aa) unnecessary.

Rule 1615, Scale of Weights For Age, provides the scale of weights for age to be carried by a horse if the conditions of a race do not specify otherwise. The proposal to amend Rule 1615 would replace the scale of weights for age with minimum jockey weights. Subsection 1615(a) provides that every horse shall carry 10 pounds of riding gear from withers to rump. The subsection also defines "riding gear" by listing the items that are included in the 10 pounds. Riding gear is composed of items that jockeys routinely use when riding in a race. The proposed amendment separates riding gear from the jockey's weight so the public will be more fully informed regarding the weight carried by the horse. Rather than include riding gear in the

jockey's weight, as is the current practice, such gear will be a separate, constant weight carried by every horse. In addition, separating riding gear from the weight of the jockey provides a disincentive for riders who may alter critical safety gear to make weight. The temptation to remove the lining of safety vests or helmets will be eliminated.

Subsection 1615(b) requires the official program to include a notice that states in addition to the listed jockey weight, all horses carry 10 pounds of riding gear. The official program must also include any additional weight carried (in cases of underweight and handicap races). (A "handicap race" is a race in which competing horses are assigned weights to carry which, ideally, will equalize their chances of winning.) This will ensure the public is fully informed regarding the weight of the riding gear a horse will carry in a race.

Subsection 1615(c) defines jockey weight. The jockey is weighed nude, as the jockey's clothing is included in the 10 pounds of riding gear, and is a separate weight under subsection (a). Jockey weight also excludes any additional clothing. If a jockey chooses to wear a robe while being weighed, the weight of the robe must be deducted to arrive at the nude weight. Jockey weights are listed in the official program. By listing nude jockey weights racing fans will know the true weight of the jockey. Under subsection 1615(c) the clerk of scales is responsible for weighing the jockey. This is current practice.

Subsection 1615(d) provides the minimum weights for jockeys. For a jockey riding an Arabian or a Thoroughbred horse the minimum weight is 116 pounds. The minimum weight for a jockey riding an Appaloosa, Paint, Quarter Horse or mule is 121 pounds. The minimum weight in handicap races shall be no less than 112 pounds. These weights do not include the ten pounds of riding gear, or any additional weight. The minimum weights represent a compromise between the Jockeys' Guild (Guild) recommendations and the recommendations of racing associations and horsemen's organizations. To arrive at its recommended weights the Guild interviewed over 200 jockeys nationwide to determine what their weight would be if they did not diet or engage in other activities to make weight. The Guild reported three quarters of the jockeys interviewed indicated 118 pounds would be their normal fit weight. It also recommended a 123-pound minimum for jockeys riding breeds other than Thoroughbred and Arabian horses as such breeds have a traditional 5-pound heavier weight allowance. Other segments of the industry believed the Guild's recommendations would be detrimental to California horse racing, so a compromise was reached that would be acceptable to all parties.

Subsection 1615(e) states nothing in Rule 1615 will affect or alter apprentice allowances. Allowances are weights or other conditions of a race. Apprentice allowances provide for lighter weights to be carried by an apprentice jockey to "even the odds" when racing against more experienced jockeys. In providing for new minimum jockey weights, it was not the intention of the Board to change such apprentice allowances.

Subsection 1615(f) requires that male jockeys maintain a minimum body fat content of not less than five percent, and a female jockey shall maintain a minimum body fat content of not less than ten percent. A jockey will be placed on warning and suspended after three calendar days of the date of the warning if his body fat content measures below one percent the minimum level. If a jockey's body fat content measures more than one percent below the minimum standard, he shall be disqualified from riding in any race. Body fat measurements will be conducted and recorded by the clerk of scales on each race day. The minimum body fat requirements were proposed by the Guild. The Board, the Guild and the racing industry are concerned with the effects of years of self-abuse many jockeys put themselves through to maintain a low body weight. It is not uncommon for jockeys to sit in sweatboxes for hours at a time, take diuretics,

self-induce vomiting, or indulge in any number of unhealthy activities to make weight. As a result, jockeys suffer dehydration, malnutrition and diminished immunity. community has a high incidence of infection, which is a direct result of its poor nutritional status. The jockey community has ten times the national incidence of chronic kidney failure and five times the overall incidence of upper respiratory tract infections, bronchitis and pneumonia. To arrive at the minimum body fat requirements, the Guild surveyed standards for other professional sports as well as collegiate sports. The range of standards for such sports bodies was between 20 percent and five percent. After determining that the best analogy for professional jockeys was a cross between cyclists and gymnasts, the Guild settled on the requirements of professional cyclist and gymnast bodies wherein none of their players could perform with a total body fat of less than five percent. Currently, it is not unusual for a jockey to have a total body fat content of less than 3 percent, and the Board recognizes that despite the new minimum weights, many jockeys will continue to struggle to maintain weight. Under the proposed amendment to Rule 1615 jockeys occasionally may have total body fat measurements below the minimum level. If a jockey's total body fat measures below the minimum level, he will be placed on warning and given three calendar days to reach the minimum level. The Board does not wish to penalize jockeys whose body fat may be below the minimum, but still within an acceptable range. However, body fat below the minimum levels is unhealthy. At certain levels of body fat, the body begins to cannibalize itself. Under subsection 1615(f), a jockey whose total body fat content measures more than one percent below the minimum level shall be disqualified from riding in any race. Disqualification provides incentive for the jockey to gain a healthy rate of body fat, and protects the health and safety of other riders. Subsection 1615(f) requires the clerk of scales to record a jockey's total body fat measurement once each race day. The clerk of scales is the official who weighs jockeys in and out, and is the logical person to measure jockeys' body fat.

Subsection 1615(g) states commencing with the effective date of the regulation, compliance with subsection (f) is optional for 24 months for any jockey licensed in the United States before December 31, 2004. This provision was included to provide a transition period for older jockeys who are used to a system wherein they abuse themselves to maintain low weights. Such jockeys might have problems accepting the new guidelines.

The Board proposes to repeal Rule 1616, Minimum Weights to Be Carried. Rule 1616 provides the minimum weights to be carried in all overnight races for two year olds only, for three year olds only, and for four year olds only and upward. In addition, the rule provides the minimum weights to be carried in all races except handicap and stakes races. The proposed amendment to Rule 1615 provides new minimum jockey weights, which would cause Rule 1616 to be redundant.

The Board proposes to repeal Rule 1684, Items Included in Weight. Rule 1684 lists items included – as well as items not included – in a jockey's weight. Most of these items are defined as "riding gear" under the proposed amendment to Rule 1615; none of the items are considered part of the jockey's weight. This would make Rule 1684 unnecessary.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the amendment to these regulations.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT AMENDMENT

Article 2. Definitions Rule 1420. Definitions

As used in these rules:

- (a) "Chairman" means the member elected by the Board to be Chairman of the Board and its presiding member.
- (b) "Commissioner" means a member of the Board.
- (c) "Age of Horse" means the age as reckoned beginning on the first day of January of the year in which the horse was foaled.
- (d) "Authorized Agent" means an agent appointed by a written document, which is signed by the owner and filed with the Board.
- (e) "Breeder" means the owner of the dam at the time of foaling.
- (f) "Conviction" includes a plea of guilty, forfeiture of bail, a judgment or verdict of guilty, or a conviction following a plea of nolo contendere, whether or not the conviction is later set aside pursuant to the provisions of Section 1203.4 of the Penal Code.
- (g) "Driver" means one who drives and controls the horse from a seated position on a two-wheel vehicle.
- (h) "Horse" means an equine and includes a stallion, gelding, mare, colt, filly or ridgling and includes mule, jack, jenny, ginnet, and hinney.
- (i) "Jockey" means a race rider.
- (i) "Licensee" means a licensee of the California Horse Racing Board.
- (k) "Maiden" means a horse which has never won a race on the flat in a state or country where the races are covered by the Daily Racing Form or other similar authorized publication. A maiden which has been disqualified after finishing first is still a maiden. Conditions referring to maidens apply to the status at the time of starting.
- (1) "Nominator" means a person in whose name a horse is entered to race.
- (m) "Objection" means a formal complaint filed before a race with the stewards or the Board objecting to the eligibility of any horse to compete in the race or the right of any person to participate in the race.
- (n) "Owner" includes the owner, part owner and lessee of any horse. An interest only in the earnings of a horse does not constitute ownership. If husband and wife, it is presumed that joint ownership exists.

- (o) "Post" means the place on the race course from which a start is made.
- (p) "Post Time" means the definite time for the start of a race, and is indicated by a clock device set up as directed by the Board.
- (q) 'Premises' means the inclosure and all other areas collectively utilized by an association in connection with its conduct of a licensed race meeting, including parking lots, auxiliary stabling areas, public inclosure and restricted areas, whether or not the areas are adjacent to the inclosure.
- (r) "Protest" means a formal complaint filed after a race with the stewards or the Board protesting the right of any horse to a place, purse or award in the race, or protesting any decision of the stewards relating to the eligibility, participation or placing of any horse in a race.
- (s) "Race" means a contest among horses for a purse, stake or reward, contested at an authorized race meeting. "Race" includes but is not limited to:
- (1) Purse Race. A race for money or any other prize to which the owners of the horses engaged do not contribute.
- (2) Stake Race. A race for which owners of horses entered or engaged for the race contribute to a purse for which money or any other prize may be added, nominations to which close 72 hours or more before starting.
- (3) Claiming Race. A race in which any horse entered therein may be claimed in conformity with the rules established by the Board.
- (4) Handicap Race. A race in which the weights to be carried by the entered horses are adjusted by a handicapper, board of handicappers or the racing secretary, to equalize their respective chances of winning.
- (5) Overnight Race. A race in which entries close 72 hours or less, excluding Sundays, in advance of the first race of the day on which the race is to be run.
- (6) Walkover. A stake race in which only one horse starts or in which all the starters are owned by the same interest.
- (7) Invitational Stake Race. An invitational stake race or an invitational handicap race for which owners do not contribute to the purse, but which is advertised in the regular stakes program, shall also be considered a stake race.
- (8) Non-wagering Race. A race contested without pari-mutuel wagering on its results including a race upon which pari-mutuel wagering is canceled.
- (9) Match Race. A race contested between two horses under conditions of the contest agreed to by their owners.
- (10) "Special Racing Event". A race of unique interest, magnitude or fame. "Special racing event" shall also mean an exhibition race when approved by the Board.

- (11) "Exhibition Race". A race contested under conditions established by the association as a promotional event or to provide a special racing opportunity to a particular horse or class of horse or class of participants and to which the association contributes the purse or awards for the contest. No pari-mutuel wagering may be conducted on the results of an exhibition race.
- (t) "Race on the Flat" means a race run over a course on which no jumps or other obstacles are placed.
- (u) "Recognized Meeting," "Race Meeting," or "Authorized Meeting" means the entire period under the conduct of an association within the inclosure of the designated grounds, and for which a license has been granted by the Board. When the context in the rules applies, it may include a meeting conducted by an association in some other jurisdiction recognized by the Board.
- (v) "Restricted Area" means those areas within the inclosure where admission can be obtained only upon presentation of authorized credentials, proper license or visitor's pass, including those areas designated as the stable area, receiving or detention barn, jockey room, saddling paddock, race course and pari-mutuel department.
- (w) "Rules" means the Rules and Regulations of the California Horse Racing Board and the orders of the Board.
- (x) "Starter" means a horse when it is in the starting gate stall, and, when the field is dispatched by the starter, the stall gate in front of the horse is opened.
- (y) "Sulky" means a dual wheel racing vehicle with dual shafts not exceeding the height of the horses withers. Shafts must be hooked separately on each side.
- (z) "Time of Race Meeting" means that period of time commencing at 12:01 A.M. on the first day of racing at a recognized meeting and concluding at 12:00 midnight after the final race of the last day of racing as allocated and licensed by the Board.
- (aa) "Weight for Age" means the standard weight to be carried by a horse according to the scale established by the rules, and remains such though there be penalties or allowances.

Authority: Sections 19440, 19562 and 19563, Business and Professions Code. Reference: Sections 19401(e) and 19420, Business and Professions Code.

PROPOSED TEXT AMENDMENT

Article 6. Entries and Declarations Rule 1615. Scale of Weights For Age

The following scale of weights for age shall be carried if the conditions for a race do not specify otherwise:

		Jan.	March							Nov.
		and	and							and
Distance	Age	Feb.	April	May	June	July	Aug	Sept.	Oct.	Dec.
_	2 years	_	_	_	_	_	105	108	111	114
	3 years	117	119	121	123	125	126	127	128	129
½ mile	4 years	130	130	130	130	130	130	130	130	130
	5 years and									
		130	130	130	130	130	130	130	130	130

	2 years	_	_	_	_	_	-102	105	108	111
	3 years	114	117	119	121	123	125	126	127	128
¾ mile	4 years	129	130	130	130	130	130	130	130	130
	5 years and									
	up	130	130	130	130	130	130	130	130	130
	2 years	_	-	_	_	_	_	-96	-99	102
1 mile	3 years	107	111	113	115	117	119	121	122	123
	4 years	127	128	127	126	126	126	126	126	126
	5 years and									
	up	128	128	127	126	126	126	126	126	126
	2 years	_	-	_	-	-	_	-	-	-
	3 years	101	107	111	113	116	118	120	121	122
1 ¼ miles	4 years	125	127	127	126	126	126	126	126	126
	5 years and									
	up	127	127	127	126	126	126	126	126	126
1 ½ miles	2 years	_	_	_	_	_	_	_	_	_
	3 years	-98	104	108	111	114	117	119	121	122
	4 years	124	126	126	126	126	126	126	126	126
	5 years and									
	-up	126	126	126	126	126	126	126	126	126
2 miles	3 years	-96	102	106	109	112	114	117	119	120
	4 years	124	126	126	126	126	125	125	124	124
	5 years and									
	up	126	126	126	126	126	125	125	124	124

In a race of intermediate distance weights for the shorter distance shall be carried.

(a). Every horse shall carry a minimum of 10 pounds of riding gear from withers to rump. "Riding gear," means any or all of the items listed below. It does not include equipment worn on the horse's head, tail, or legs; nor a channel, breastplate, or running martingale; nor foul-weather gear, which is any additional riding apparel a jockey chooses to wear due to inclement weather. Riding gear shall be weighed with the jockey when he weighs out under Rule 1682 of this division and again when the jockey weighs in under Rule 1701 of this division.

Anti-slip pad Arm number

Boots

Eye protection

Foam pad

Gloves

Goggles (4 pair)

Helmet cover

Leggings

Metal stirrups

Number cloth

Over-girth

Pants

Pommel pad

Rubber bands

Saddle

Saddle pad

Safety helmet

Safety vest

Silks

Socks

Sock tie

T-shirt

Turtleneck

Under-girth

Underwear

Whip

- (b) The official program shall separately designate the jockey's actual weight, the weight of the equipment from the withers to the rump as specified in subsection (a), any additional weight, and the combined total weight of the jockey and the equipment.
- (c) "Jockey weight" means the weight of the jockey, nude, absent any riding gear or clothing, as recorded by the clerk of scales when the jockey is weighed. The clerk of scales will weigh and record jockey weight once each day when the jockey reports to the Jockey Room in accordance with Rule 1680 of this division. If the jockey uses a robe to be weighed, its weight shall be deducted to arrive at the nude weight.
- (d) The minimum jockey weight for a jockey riding an Arabian or Thoroughbred horse shall be no less than 116 pounds. The minimum jockey weight for a jockey riding an Appaloosa, Paint, Quarter Horse or mule shall be no less than 121 pounds. The minimum jockey weight in handicap races shall be no less than 112 pounds.
- (e) Nothing in this rule shall affect or alter apprentice allowances. If the apprentice allowance is used, then the minimum weight may be reduced by the amount of such allowance.
- (f) Male jockeys shall maintain a minimum body fat content of 5% and female jockeys a minimum body fat content of 10%. A jockey's body fat content shall be measured and recorded by the clerk of scales once each day of racing. A jockey whose body fat content measures within 1% below the minimum level under this Rule shall be placed on warning and suspended from riding if the minimum standard is not met within three calendar days of the date of the warning. A jockey whose body fat content measures more than 1% below the minimum level under this Rule shall disqualified from riding in any race.
- (g) Compliance with subsection (f) of this rule is optional for 24 months, commencing on the effective date of this regulation, for any jockey licensed in the United States before December 31, 2004.

Authority: Section 19420, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

PROPOSED TEXT REPEAL

Article 6. Entries and Declarations
Rule 1616. Minimum Weights to be Carried

Notwithstanding any other provisions of this Division, the minimum weight to be carried in all overnight races for two year olds only, for three year olds only, and for four year olds only and

upward shall be 112 pounds subject to further sex and apprentice allowances. The minimum weight to be carried in all races except handicap and stakes races, shall be 103 pounds.

Authority: Sections 19562 and 19590, Business and Professions Code. Reference: Sections 19562 and 19590, Business and Professions Code.

PROPOSED TEXT REPEAL

Article 8. Running the Race Rule 1684. Items Included in Weight

A Jockey's weight includes his riding clothing, saddle and pad. It shall not include the jockey's safety helmet, safety vest, whip or the horse's bridle.

Authority: Sections 19481 and 19562, Business and Professions Code.

Reference: Section 19481, Business and Professions Code.

NOTICE OF PROPOSAL TO AMEND

Title 4, Division 4, California Code of Regulations Rule 1433. Application for License to Conduct a Horse Racing Meeting

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1433, Application for License to Conduct a Horse Racing Meeting. Rule 1433 incorporates by reference forms CHRB-17, Application for License to Conduct a Horse Racing Meeting, and CHRB-18, Application for License to Conduct a Horse Racing Meeting of a California Fair. CHRB-17 will be amended to require that applicants file an audited annual financial statement with the application for license. CHRB-17 and CHRB-18 will also be revised to collect information about the applicant's electronic security system and emergency lighting system in the case of the night racing industry. In addition, the applicant must identify steps it is taking to increase on-track attendance and to develop new horse racing fans. Other changes to the applications eliminate redundant words and phrases, and renumber sections as needed.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:30 a.m., Thursday, May 26, 2005, or as soon after that as business before the Board will permit, at the Los Alamitos Race Course, 4961 Katella Avenue, Los Alamitos, California. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on May 16, 2005. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6397

Fax: (916) 263-6042

E-mail: HaroldA@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420 and 19440, Business and Professions (B&P) Code. Reference: 19480 and 19562, B&P Code.

B&P Code Sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19480 and 19562, B&P Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

B&P Code Section 19420 provides that jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. B&P Code Section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to: Licensing of each racing association and all persons, other than the public at large, who participate in a horse racing meeting with pari-mutuel wagering. B&P Code Section 19480 states the Board may issue to any person who makes application therefore in writing, who has complied with the provisions of this chapter, and who makes the deposit to secure payment of the license fee imposed by this article, a license to conduct a horse racing meeting in accordance with this chapter at the track specified in the application. B&P Code Section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State.

The Board proposes to amend Rule 1433 by modifying forms CHRB-17 and CHRB-18, which are incorporated by reference. Item 4 of CHRB-17 will be changed to require audited financial statements from the licensee in the case of corporations and limited liability corporations (LLC). Previously, such entities were required to provide only an annual financial statement. It was found that the statements might not provide the detail needed by the Board. In addition, the item was modified to require the licensee to provide a financial statement rather than the corporation or LLC. This change was implemented because the Board does not need to see the financial statement of a parent corporation. Item 5 of CHRB-18 has been modified to eliminate estimated purse distributions for all stakes races, as it is redundant. The estimated purses for overnight stakes and non-overnight stakes should equal "all stakes" purses. In addition, a statement providing that all funds generated and retained from on-track pari-mutuel handle, and are obligated by law for distribution in the form of benefits to horsemen, shall not be transferred to a parent corporation outside the State of California, was added to the "notice to applicant" section of item 5 of CHRB-17. The statement was requested by Thoroughbred Owners of California (TOC) at the January 2005 Regular Board Meeting. TOC stated it was not clear if the purse accounts sent out-of-state had been co-mingled with other funds, or segregated, or if the full amount of interest had been paid. TOC also stated co-mingled funds held out-of-state lacked protection against creditors. Acronyms for various wagers have been deleted from item 7 of the CHRB-17 and CHRB-18. The acronyms were removed because the wagers they represent are not offered, or are rarely offered, by applicant associations, and the Board is preparing to repeal the enabling regulations. Item 8 of CHRB-17 and CHRB-18 has also been amended to determine how much out-of-state sites are paying associations for simulcasting activity. In

addition, under item 8 of CHRB-17 and CHRB-18, the examples for thoroughbred, quarter horse and harness simulcast races to be imported have been deleted. Few associations used the format provided, so it is unnecessary for the purposes of the application. Under item 10 of CHRB-17, and item 9 of CHRB-18, the associate judge has been eliminated because the position is not used. Under the same items, the position of "film specialist" has been added. Item 10.E. of CHRB-17 and CHRB-18 has been modified to require the number and location of cameras for dirt and turf tracks. This is to ensure associations are adequately recording each race and are in compliance with Board Rule 1442, Photographic or Videotape Recording of Races. Item 11 of CHRB-17. and item 10 of CHRB-18, has been changed to look exclusively at security controls. The Board is always concerned with racetrack security, and is interested in what steps racing associations are taking to enhance and upgrade their security operations. While the Board has not required associations to install surveillance cameras on their grounds, it wishes to encourage discussion of such issues through the application process. Under the new item 11 of CHRB-17 and item 10 of CHRB-18, associations must include an organizational chart of their security department with names and contact telephone numbers. In addition, they must provide a written plan for enhanced security for specific types of races and for enhanced surveillance of the barn area. Associations must also describe their electronic security system and provide the location and number of video surveillance cameras for the detention barn and stable gate. Also, under item 11 of CHRB-17, night racing associations must describe their emergency lighting systems. A new item 14 has been added to CHRB-17, and a new item 13 to CHRB-18. The new item pertains to on-track attendance and fan development. The Board believes that on-track attendance and new fans are vital for the health of horse racing, so questions regarding the association's advertising budget; promotional plans; personnel and facilities devoted to new fan development; and facility improvements to benefit fans and the industry have been introduced. Under item 17 of CHRB-17, and item 16 of CHRB-18, associations are no longer required to attach a written certification that an inspection of backstretch employee housing was conducted. As Board staff is involved with such inspections, staff supplies the certification. Item 2 of the CHRB-18 no longer asks for the actual dates racing will be held. In general, fair race meetings run for no more than two weeks, so the information is not necessary (as opposed to thoroughbred, quarter horse and standardbred meetings which can run from one month to a year.) Under item 11 of CHRB-18. the name of the workers' compensation insurance carrier is no longer necessary. All fairs are self insured through California Fair Services Authority, so there is no policy number. All other changes to CHRB-17 and CHRB-18 are for purposes of style and clarity, and for renumbering where needed.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1433 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1433 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1433 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. Rule 1433 provides that associations or racing fairs wishing to conduct a horse racing meeting in the State of California must file an Application for License to Conduct a Horse Racing Meeting, CHRB-17; or an Application for License to Conduct a Horse Racing Meeting of a California Fair, CHRB-18. Forms CHRB-17 and CHRB-18 are incorporated by reference in Rule 1433.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6397

E-mail: HaroldA@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Pat Noble, Regulation Analyst Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the

regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

Rule 1433. Application for License to Conduct a Horse Racing Meeting

SPECIFIC PURPOSE OF THE REGULATIONS

The proposed amendment to Rule 1433, Application for License to Conduct a Horse Racing Meeting, will update form CHRB-17, Application for License to Conduct a Horse Racing Meeting, and CHRB-18, Application for License to Conduct a Horse Racing Meeting of a California Fair. Both forms are incorporated by reference in Rule 1433. The Board proposes to amend form CHRB-17 to require that applicants file an audited annual financial statement with the application for license. Forms CHRB-17 and CHRB-18 will also be revised to collect information about the applicant's electronic security system and emergency lighting system in the case of the night racing industry. In addition, the applicant must identify steps it is taking to increase on-track attendance and to develop new horse racing fans. Other changes to the applications eliminate redundant words and phrases, and renumber sections as needed.

NECESSITY

The Board proposes to amend Rule 1433 by modifying forms CHRB-17 and CHRB-18, which are incorporated by reference. Item 4 of CHRB-17 will be changed to require audited financial statements from the licensee in the case of corporations and limited liability corporations (LLC). Previously, such entities were required to provide only an annual financial statement. It was found that the statements might not provide the detail needed by the Board. In addition, the item was modified to require the licensee to provide a financial statement rather than the corporation or LLC. This change was implemented because the Board does not need to see the financial statement of a parent corporation. Item 5 of CHRB-18 has been modified to eliminate estimated purse distributions for all stakes races, as it is redundant. The estimated purses for overnight stakes and non-overnight stakes should equal "all stakes" purses. In addition, a statement

providing that all funds generated and retained from on-track pari-mutuel handle, and are obligated by law for distribution in the form of benefits to horsemen, shall not be transferred to a parent corporation outside the State of California, was added to the "notice to applicant" section of item 5 of CHRB-17. The statement was requested by Thoroughbred Owners of California (TOC) at the January 2005 Regular Board Meeting. TOC stated it was not clear if the purse accounts sent out-of-state had been co-mingled with other funds, or segregated, or if the full amount of interest had been paid. TOC also stated co-mingled funds held out-of-state lacked protection against creditors. Acronyms for various wagers have been deleted from item 7 of the CHRB-17 and CHRB-18. The acronyms were removed because the wagers they represent are not offered or are rarely offered by applicant associations and the Board is preparing to repeal the enabling regulations. Item 8 of CHRB-17 and CHRB-18 has also been amended to determine how much out-of-state sites are paying associations for simulcasting activity. In addition, under item 8 of CHRB-17 and CHRB-18, the examples for thoroughbred, quarter horse and harness simulcast races to be imported have been deleted. Few associations used the format provided, so it is unnecessary for the purposes of the application. Under item 10 of CHRB-17, and item 9 of CHRB-18, the associate judge has been eliminated because the position is not used. Under the same items, the position of "film specialist" has been added. Item 10.E. of CHRB-17 and CHRB-18 has been modified to require the number and location of cameras for dirt and turf tracks. This is to ensure associations are adequately recording each race and are in compliance with Board Rule 1442, Photographic or Videotape Recording of Races. Item 11 of CHRB-17, and item 10 of CHRB-18, has been changed to look exclusively at security controls. The Board is always concerned with racetrack security, and is interested in what steps racing associations are taking to enhance and upgrade their security operations. While the Board has not required associations to install surveillance cameras on their grounds, it wishes to encourage discussion of such issues through the application process. Under the new item 11 of CHRB-17 and item 10 of CHRB-18, associations must include an organizational chart of their security department with names and contact telephone numbers. In addition, they must provide a written plan for enhanced security for specific types of races and for enhanced surveillance of the barn area. Associations must also describe their electronic security system and provide the location and number of video surveillance cameras for the detention barn and stable gate. Also, under item 11 of CHRB-17, night racing associations must describe their emergency lighting systems. A new item 14 has been added to CHRB-17, and a new item 13 to CHRB-18. The new item pertains to on-track attendance and fan development. The Board understands that on-track attendance and new fans are vital for the health of horse racing, so questions regarding the association's advertising budget; promotional plans; personnel and facilities devoted to new fan development; and facility improvements to benefit fans and the industry have been introduced. Under item 17 of CHRB-17, and item 16 of CHRB-18, associations are no longer required to attach a written certification that an inspection of backstretch employee housing was conducted. As Board staff is involved with such inspections, staff supplies the certification. Item 2 of the CHRB-18 no longer asks for the actual dates racing will be held. In general, fair race meetings run for no more than two weeks, so the information is not necessary (as opposed to thoroughbred, quarter horse and standardbred meetings which can run from one month to a year.) Under item 11 of CHRB-18, the name of the workers' compensation insurance carrier is no longer necessary. All fairs are self insured through California Fair Services Authority, so there is no policy number. All other changes to CHRB-17 and CHRB-18 are for purposes of style and clarity, and for renumbering where needed.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the amendment to these regulations.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT AMENDMENT

Article 3. Racing Association

Rule 1433. Application for License to Conduct a Horse Racing Meeting

Unless the Board requires an earlier filing, at least 90 days before the time allocated by the Board for a race meeting to start, the association shall file with the Board an Application for License to Conduct a Horse Racing Meeting, CHRB-17 (Rev. 01/05), which is hereby incorporated by reference. Note: CHRB-17 incorporates by reference, the Personal History Record, CHRB-25A (Rev. 7/93). A California fair shall file with the Board an Application for License to Conduct a Horse Racing Meeting of a California Fair, CHRB-18 (Rev. 01/05), which is hereby incorporated by reference. Copies of CHRB-17 and CHRB-18 may be obtained at the California Horse Racing Board headquarters office.

Authority: Sections 19420 and 19440, Business and Professions Code.

Reference: Sections 19480 and 19568 19562, Business and Professions Code.

NOTICE OF PROPOSAL TO AMEND

Title 4, Division 4, California Code of Regulations

Rule 1663. Entry of Claimed Horse

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1663, Entry of Claimed Horse, to provide that a horse claimed in a California claiming race is ineligible to race in any State other than California until 60 days after the close of the meeting from where it was claimed except in a stakes race.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:30 a.m., Thursday, May 26, 2005, or as soon after that as business before the Board will permit, at the Los Alamitos Race Course, 4961 Katella Avenue, Los Alamitos, California. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m.** on **May 23, 2005**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6397

Fax: (916) 263-6042

E-mail: Harold A@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420 and 19440, Business and Professions (B&P) Code. Reference: Section 19562, B&P Code.

B&P Code Sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Section 19562, B&P Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

B&P Code Section 19420 provides that jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. B&P Code Section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to: Licensing of each racing association and all persons, other than the public at large, who participate in a horse racing meeting with pari-mutuel wagering. B&P Code Section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State.

The Board proposes to amend Rule 1663 to make horses claimed out of a claiming race in California ineligible to race in any State other than California until 60 days after the close of the meeting at which it was claimed except in a stakes race. In addition, the proposed amendment would include standardbred horses in the 60-day prohibition while maintaining the breed's exemption from the remaining provisions of the Rule. The California horse racing industry has asked the Board to amend Rule 1663 to prevent horses claimed in California claiming races from being raced out of state until 60 days after the close of the meeting at which they were claimed. The number of horses claimed in California has steadily increased over time. Between fiscal year 1996-1997 and fiscal year 2003-2004, the number of California horses claimed rose from 2,440 to 3,397. The industry maintains many of these horses are shipped out of state, with the effect of lowering the in-state stock of horses. The depletion of eligible race horses in California means fewer starters and short fields. This causes California's horse racing product to be less attractive to the wagering public. Between 1997 and 2003, on-track attendance at horse racing events in California dropped by over 1.6 million fans. The proposal to make horses claimed in California ineligible to race in another jurisdiction until 60 days after the meeting in which it was claimed is not unique. Several horse racing jurisdictions have such regulations, and all United States horse racing jurisdictions honor them on a reciprocal basis. If a horse claimed in another jurisdiction is shipped to California and there are questions regarding its eligibility to race, the jurisdiction from which it was claimed is contacted to make a determination. The harness industry was previously exempt from the provisions of Rule 1663. However, harness meetings are also experiencing a shortage of horses, so the industry requested that a standardbred claimed in California be prohibited from running in another state until 60 days after the meeting in which it was claimed.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1663 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1663 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1663 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. Rule 1663 states the conditions under which a horse claimed out of a claiming race may start in a subsequent race, be run back in a claiming race or run out of state. The regulation also provides the conditions under which a claimed horse may be removed from the grounds of the racing association where it was claimed.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6397 E-mail: HaroldA@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Pat Noble, Regulation Analyst Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's website address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

Rule 1663. Entry of a Claimed Horse

SPECIFIC PURPOSE OF THE REGULATIONS

The proposed amendment to Rule 1663, Entry of a Claimed Horse provides that a horse claimed in a California claiming race is ineligible to race in any State other than California until 60 days after the close of the meeting from which it was claimed. Standardbred horses are exempt from the provisions of Rule 1663 except for the 60-day provision. Other changes to the rule eliminate redundant words, and renumbered sections as needed.

NECESSITY

The Board proposes to amend Rule 1663 to make horses claimed out of a claiming race in California ineligible to race in any State other than California until 60 days after the close of the

meeting at which it was claimed except in a stakes race. In addition, the proposed amendment would include standardbred horses in the 60-day prohibition while maintaining the breed's exemption from the remaining provisions of the Rule. The California horse racing industry has asked the Board to amend Rule 1663 to prevent horses claimed in California claiming races from being raced out of state until 60 days after the close of the meeting at which they were claimed. The number of horses claimed in California has steadily increased over time. Between fiscal year 1996-1997 and fiscal year 2003-2004, the number of California horses claimed rose from 2.440 to 3.397. The industry maintains many of these horses are shipped out of state, with the effect of lowering the in-state stock of horses. The depletion of eligible race horses in California means fewer starters and short fields. This causes California's horse racing product to be less attractive to the wagering public. Between 1997 and 2003, on-track attendance at horse racing events in California dropped by over 1.6 million fans. The proposal to make horses claimed in California ineligible to race in another jurisdiction until 60 days after the meeting in which it was claimed is not unique. Many horse racing jurisdictions have such regulations, and all United States horse racing jurisdictions honor them on a reciprocal basis. If a horse claimed in another jurisdiction is shipped to California and there are questions regarding its eligibility to race, the jurisdiction from which it was claimed is contacted to make a determination. The harness industry was previously exempt from the provisions of Rule 1663. However, harness meetings are also experiencing a shortage of horses, so the industry requested that a standardbred claimed in California be prohibited from running in another state until 60 days after the meeting in which it was claimed.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board relied on its annual reports for fiscal years 1996-1997 through fiscal year 2003-2004, and its statistical report of operations for the years 1997 and 2003 in proposing the amendment to these regulations.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT AMENDMENT

Article 7. Claiming Races Rule 1663. Entry of Claimed Horse

- (a) A horse claimed out of a claiming race is eligible to race at any racing association in California immediately after being claimed. The horse is not eligible to start in a claiming race for 25 days after the date of the claim for less than 25% more than the amount for which it was claimed;
- (b) A horse claimed out of a claiming race is not nor is it eligible to race in any State other than California until 60 days after the close of the meeting from where it was claimed except in a stakes race.
- (\underline{cb}) A claimed horse may be removed from the grounds of the association where it was claimed for non-racing purposes.

(de) This rule does The provisions of subsection (a) of this rule do not apply to standardbred horses.

Authority: Sections 19420, and 19440 and 19562, Business and Professions Code.

Reference: Sections 19440 and 19562, Business and Professions Code.

NOTIFICATION OF AVAILABILITY OF RULEMAKING DOCUMENTS FOR

Rule 1844. Authorized Medication

Rule 1845. Bleeder List

Pursuant to the requirements of Government Code Section 11347.1, the California Horse Racing Board (Board) is providing notice that technical, theoretical, or empirical studies, reports or similar documents, which the Board relied on in formulating the proposed action, were added to the rulemaking file after publication of the notice of proposed action. Specifically, a document titled: Scientific Background for Establishing Primary and Secondary Regulatory Thresholds for Non-Steroidal Anti-Inflammatory Drugs Approved by the United States Food and Drug Administration for Use in The Horse prepared by professor Richard Sams, PHD, Analytical Toxicology Laboratory, College of Veterinary Medicine, The Ohio State University, Columbus, Ohio, and a memorandum dated May 8, 2004, from Scot Waterman, DVM, Executive Director of the Racing Medication and Testing Consortium (RMTC), Inc., to California RMTC Board Members, regarding Changes to existing California Medication Rules, were added to the file.

AVAILABILITY OF RULEMAKING DOCUMENTS

The documents described in the paragraph above are available for inspection by interested persons, or their representatives, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, at the California Horse Racing Board headquarters, 1010 Hurley Way, Suite 300, Sacramento, California. Requests for copies of the documents should be directed to:

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825

Telephone: (916) 263-6397 E-mail: <u>harolda@chrb.ca.gov</u>

Any interested person may submit a written statement relating to the documents described above during the public comment period from March 14, 2005, to March 29, 2005. The written comment period will close at 5:00 p.m. on March 29, 2005. Submit written comments to Harold Coburn at the address above.

All written comments received by the CHRB by **5:00 p.m.**, **March 29, 2005**, will be reviewed and responded to by the Board's staff in the final statement of reasons as part of the completion of the rulemaking file. Please limit your comments to the documents described above.

NOTICE OF PROPOSAL TO AMEND

Title 4, Division 4, California Code of Regulations

Rule 1843.5. Medication, Drugs and Other Substances Permitted After Entry in a Race

Rule 1844. Authorized Medication

Rule 1845. Bleeder List

The California Horse Racing Board (Board) proposes to amend the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The proposed amendments to Rules 1843.5, Medication, Drugs and Other Substances Permitted After Entry in a Race, 1844, Authorized Medication and 1845, Bleeder List, would bring the Board's regulations in line with recommendations made by the Racing Medication and Testing Consortium (RMTC). The RMTC is a national organization composed of industry representatives, which is charged with developing uniform national medication rules, policies and testing procedures. The proposed amendment to Rule 1843.5 provides that veterinarians shall not have contact with an entered horse on race day except for the administration of furosemide or other bleeder medications. The proposed amendment to Rule 1844 changes the dosage amount that the test sample shall contain for flunixin from 0.5 micrograms to 20 nanograms, and for ketoprofen from 50 nanograms to 10 nanograms. The proposed amendment to Rule 1845 changes authorized bleeder medication procedures in accordance with RMTC recommendations.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:30 a.m., Thursday, December 2, 2004, or as soon after that as business before the Board will permit, at the Hollywood Park Race Course, Turf Club Sunset Room (4th floor), 1050 South Prairie Avenue, Inglewood, California. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on November 22, 2004**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6397

Telephone: (916) 263-6397

Fax: (916) 263-6042

E-mail: HaroldA@chrb.ca.gov

AUTHORITY AND REFERENCE

<u>Rule 1843.5</u>: Authority cited: Sections 19440 and 19562, B&P Code. Reference: 19580, 19581 and 19582 B&P Code and Section 337f, g and h, Penal Code.

B&P Code Sections 19440 and 19562 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19580, 19581 and 19582 B&P Code and Section 337f, g and h, Penal Code.

Rule 1844: Authority cited: Sections 19440, and 19562, B&P Code. Reference: Sections 19580 and 19581, B&P Code.

B&P Code Sections 19440, and 19562 authorize the Board to adopt the proposed regulation,

which would implement, interpret or make specific Sections 19580 and 19581, B&P Code.

Rule 1845: Authority cited: Sections 19440 and 19562, B&P Code. Reference: 19580 and 19581, B&P Code.

B&P Code Sections 19440, and 19562 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19580 and 19581, B&P Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board proposes to amend Rule 1843.5 by adding subsection (i), which provides that no veterinarian, other than the official and racing veterinarians, may have contact with an entered horse on raceday unless approved by the official veterinarian, or for the administration of furosemide or other bleeder medication. If unauthorized medications were going to be administered to a horse in an attempt to influence its race performance, they would likely be given as close to race time as possible. So, as a practice and as a matter of perception, the Board believes it is best that veterinarians not be in contact with horses entered to race except for administration of approved medications or in an emergency. All other changes to Rule 1843.5 are for purposes of clarification and grammar.

Rule 1844 provides a list of approved non-steroidal anti-inflammatory drug substances, one of which may be administered to a horse until 24 hours prior to racing. Currently, under subsection 1844(c)(2) the test sample shall contain not more than 0.5 micrograms of flunixin per milliliter of blood plasma or serum. The proposed amendment to Rule 1844 changes the level to 20 nanograms of flunixin. Under subsection 1844(c)(3) the test sample shall contain not more than 50 nanograms of ketoprofen per milliliter of blood plasma or serum. The proposed amendment to Rule 19844 changes the level to 10 nanograms. These changes were recommended by the RMTC after a review of research literature demonstrated these levels would prohibit any improper administration of flunixin or ketoprofen within 24 hours of racing. All other changes to Rule 1844 are for purposes of clarification and grammar.

Rule 1845 provides the conditions and procedures under which authorized bleeder medication may be administered to a horse. The proposed amendment to Rule 1845 changes the name of the regulation from "Bleeder List" to "Authorized Bleeder Medication." This clarifies the topic of the regulation. Subsection 1845(a) provides that a horse is eligible to race with authorized bleeder medication if the licensed trainer and/or veterinarian determine it is in the best interest of the horse. Most, if not all thoroughbred horses eventually show signs of exercise induced pulmonary hemorrhage (EIPH). However, horses may not bleed at a time when they can be observed. Allowing the trainer or veterinarian to determine if the horse should run on an authorized bleeder medication eliminates the need for the official veterinarian to observe the Subsection 1845(a) incorporates by reference form CHRB 194 (New 09/04) Authorized Bleeder Medication Notice/Request (CHRB 194). A similar form is currently used at racetracks. Incorporation of CHRB 194 provides a standardized form and procedures by which the official veterinarian will be notified that a horse will run on authorized bleeder medication. In addition, CHRB 194 will be used to request the horse be taken off the authorized bleeder medication list. Subsection 1845(b) states the official laboratory shall measure the specific gravity of post-race urine samples to ensure they are sufficiently concentrated for proper chemical analysis. Such samples shall not have specific gravity below 1.010. The specific gravity measures the dilution of the urine sample. A measurement of below 1.010 would indicate that authorized bleeder medication might have been improperly administered. Subsection 1845(c) provides that if the post race urine sample is determined to be below 1.010, or if a urine sample is not available for testing, quantitation in serum or plasma shall be

was administered too close to race time or in an excessive amount in violation of the Board's rules. The new language in subsection 1845(d) was previously in the old subsection 1845(g). The new language in subsection 1845(e) was previously in the old subsection 1845(f). However, in recognition that the size and weight of horses varies, dosage of the authorized bleeder medication furosemide has been changed from a maximum dose of 250 mg. to a range of not less than 150 mg. or not more than 500 mg. Most dosages are calculated by milligram per kilogram of body weight. A horse racing with the approved bleeder medication furosemide must show a detectable concentration of the drug in the post race serum, plasma or urine sample. The Board requires that racing fans be notified in the official program if a horse is running on an approved bleeder medication. In addition, the official veterinarian is also notified. If such a report is made, the drug must be present in the test samples. While the veterinarian is still required to report administration of authorized bleeder medication two hours prior to post time, they must use CHRB-36 Bleeder Treatment Report, which is incorporated by reference. This form is currently in use at racetracks. Subsection 1845(f) provides that a horse must remain on the authorized bleeder medication list until the trainer or veterinarian requests it be removed. The request must be made prior to time of entry using form CHRB 194. Once removed, the horse may not be placed back on the list for a period of 60 calendar days. If the horse is removed a second time in a 365-day period it may not be placed back on the list for 90 calendar days. These periods of time were recommended by the RMTC in its uniform national rules policy and are designed to prevent horses from being moved on and off authorized bleeder medication. Subsection 1845(g) states if the official veterinarian observes a horse bleeding externally from one or both nostrils, and determines such bleeding is a result of EIPH, the horse shall be ineligible to race for a specific number of days – based on the number of observed incidents within a 365-day period. The dates are RMTC recommendations and current practice at California racetracks. Subsection 1845(h) is deleted because it is no longer necessary.

performed. Quantitation in serum or plasma will indicate if the authorized bleeder medication

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rules 1843.5, 1844 and 1845 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed amendment to Rules 1843.5, 1844 and 1845.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rules 1843.5, 1844 and 1845 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses

within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rules 1843.5, 1844 and 1845 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. Rule 1843.5 lists medication, drugs and other substances permitted after entry in a race. Rule 1844 lists authorized medications and specifies level of such medications that may be present in test samples. Rule 1845 provides that approved prophylactic medication for the control of exercised induced pulmonary hemorrhage may be administered to a horse, and states the conditions and procedures under which such medication may be administered.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that was otherwise identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6397

E-mail: HaroldA@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Pat Noble, Regulation Analyst Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION.

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed texts of the regulations, and the initial statement or reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact persons at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed texts, the modified texts – with changes clearly marked – shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulations in their current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed tests of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

Rule 1843.5. Medication, Drugs and Other Substances Permitted After Entry in a Race

Rule 1844. Authorized Medication

Rule 1845. Bleeder List

SPECIFIC PURPOSE OF THE REGULATIONS

The proposed amendments to Rules 1843.5, Medication, Drugs and Other Substances Permitted After Entry in a Race, 1844, Authorized Medication and 1845, Bleeder List, would bring the Board's regulations in line with recommendations made by the Racing Medication and Testing Consortium (RMTC). The RMTC is a national organization composed of industry representatives, which is charged with developing uniform national medication rules, policies and testing procedures. The proposed amendment to Rule 1843.5 provides that veterinarians shall not have contact with an entered horse on race day except for the administration of furosemide or other bleeder medications. The proposed amendment to Rule 1844 changes the dosage amount that the test sample shall contain for flunixin from 0.5 micrograms to 20 nanograms, and for ketoprofen from 50 nanograms to 10 nanograms. The proposed amendment to Rule 1845 changes bleeder list procedures in accordance with RMTC recommendations.

NECESSITY

The Board proposes to amend Rule 1843.5 by adding subsection (i), which provides that no veterinarian, other than the official and racing veterinarians, may have contact with an entered horse on raceday unless approved by the official veterinarian, or for the administration of furosemide or other bleeder medication. If unauthorized medications were going to be administered to a horse in an attempt to influence its race performance, they would likely be given as close to race time as possible. So, as a practice and as a matter of perception, the Board believes it is best that veterinarians not be in contact with horses entered to race except for administration of approved medications or in an emergency. All other changes to Rule 1843.5 are for purposes of clarification and grammar.

Rule 1844 provides a list of approved non-steroidal anti-inflammatory drug substances, one of which may be administered to a horse until 24 hours prior to racing. Currently, under subsection

1844(c)(2) the test sample shall contain not more than 0.5 micrograms of flunixin per milliliter of blood plasma or serum. The proposed amendment to Rule 1844 changes the level to 20 nanograms of flunixin. Under subsection 1844(c)(3) the test sample shall contain not more than 50 nanograms of ketoprofen per milliliter of blood plasma or serum. The proposed amendment to Rule 19844 changes the level to 10 nanograms. These changes were recommended by the RMTC after a review of research literature demonstrated these levels would prohibit any improper administration of flunixin or ketoprofen within 24 hours of racing. All other changes to Rule 1844 are for purposes of clarification and grammar.

Rule 1845 provides the conditions and procedures under which authorized bleeder medication may be administered to a horse. The proposed amendment to Rule 1845 changes the name of the regulation from "Bleeder List" to "Authorized Bleeder Medication." This clarifies the topic of the regulation. Subsection 1845(a) provides that a horse is eligible to race with authorized bleeder medication if the licensed trainer and/or veterinarian determine it is in the best interest of the horse. Most, if not all thoroughbred horses eventually show signs of exercise induced pulmonary hemorrhage (EIPH). However, horses may not bleed at a time when they can be Allowing the trainer or veterinarian to determine if the horse should run on an authorized bleeder medication eliminates the need for the official veterinarian to observe the bleeding. Subsection 1845(a) incorporates by reference form CHRB 194 (New 09/04) Authorized Bleeder Medication Notice/Request (CHRB 194). A similar form is currently used at racetracks. Incorporation of CHRB 194 provides a standardized form and procedures by which the official veterinarian will be notified that a horse will run on authorized bleeder medication. In addition, CHRB 194 will be used to request the horse be taken off the authorized bleeder medication list. Subsection 1845(b) states the official laboratory shall measure the specific gravity of post-race urine samples to ensure they are sufficiently concentrated for proper chemical analysis. Such samples shall not have a specific gravity below 1.010. The specific gravity measures the dilution of the urine sample. A measurement of below 1.010 would indicate that authorized bleeder medication might have been improperly administered. Subsection 1845(c) provides that if the post race urine sample is determined to be below 1.010, or if a urine sample is not available for testing, quantitation in serum or plasma shall be performed. Quantitation in serum or plasma will indicate if the authorized bleeder medication was administered too close to race time or in an excessive amount in violation of the Board's rules. The new language in subsection 1845(d) was previously in the old subsection 1845(g). The new language in subsection 1845(e) was previously in the old subsection 1845(f). However, in recognition that the size and weight of horses varies, the dosage of the authorized bleeder medication furosemide has been changed from a maximum dose of 250 mg. to a range of not less than 150 mg. or not more than 500 mg. Most dosages are calculated by milligram per kilogram of body weight. A horse racing with the approved bleeder medication furosemide must show a detectable concentration of the drug I the post race serum, plasma or urine sample. The Board requires that racing fans be notified in the official program if a horse is running on an approved bleeder medication. In addition, the official veterinarian is also notified. If such a report is made, the drug must be present in the test samples. While the veterinarian is still required to report administration of authorized bleeder medication two hours prior to post time, they must use CHRB-36 Bleeder Treatment Report, which is incorporated by reference. This form is currently in use at racetracks. Subsection 1845(f) provides that a horse must remain on the authorized bleeder medication list until the trainer or veterinarian requests it be removed. The request must be made prior to time of entry using form CHRB 194. Once removed, the horse may not be placed back on the list for a period of 60 calendar days. If the horse is removed a second time in a 365-day period it may not be placed back on the list for 90 calendar days. These periods of time were recommended by the RMTC in its uniform national rules policy and are designed to prevent horses from being moved on and off authorized bleeder medication.

Subsection 1845(g) states if the official veterinarian observes a horse bleeding externally from one or both nostrils, and determines such bleeding is a result of EIPH, the horse shall be ineligible to race for a specific number of days – based on the number of observed incidents within a 365-day period. The dates are RMTC recommendations and current practice at California racetracks. Subsection 1845 (h) is deleted because it is no longer necessary.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the amendment to these regulations.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT AMENDMENT

Article 15. Veterinary Practices

Rule 1843.5. Medication, Drugs and Other Substances Permitted After Entry in a Race.

- (a) In this rule a horse is deemed "entered" in a race 48 hours before post time of the running of the race.
- (b) Water and feed, including hay, grain, and feed supplements that do not contain prohibited drugs may be provided to the horse up until post time.
- (c) Drugs, medications or any other substances shall not be administered by any means to a horse within 48 hours of the post time of the race in which the horse is entered except:
- (1) Topical medications, (such as antiseptics, ointments, salves, leg rubs, leg paints, hoof dressings, liniments and antiphlogistics) which that do not contain anesthetics or other prohibited drugs.
- (d) Any drug, medication or any other substance found in a test sample taken from a horse which that is not authorized under this rule shall be deemed a prohibited drug substance.
- (e) Any of the following substances may be administered by injection until 24 hours before the post time of the race in which the horse is entered:
- (1) Injectable Vitamins;
- (2) Electrolyte Solutions;
- (3) Amino Acid Solutions;
- (4) Tetanus Antitoxin or Tetanus Toxoid, if the horse has sustained a wound.
- (f) Approved anti-ulcer medications may be administered until 24 hours before the post time of the race in which the horse is entered. A list of approved anti-ulcer medications, and route of administration, shall be posted at each racetrack in the office of the official veterinarian.
- (g) One of the following non-steroidal anti-inflammatory medications may be administered until 24 hours before the post time of the race in which the horse is entered under Rule 1844 of this division:

- (1) Phenylbutazone;
- (2) Flunixin;
- (3) Ketoprofen.
- (h) In addition to the substances named in subsection (c)(1), any of the following substances may be administered under Rule 1845 of this division within 24 hours of the post time of the race in which the horse is entered:
- (1) Furosemide; 00000000
- (2) Other Authorized Bleeder Medication.
- (i) Veterinarians, other than the official veterinarian and the racing veterinarian, shall not have contact with an entered horse on raceday unless approved by the official veterinarian, except for the administration of furosemide or other bleeder medication.

Authority: Sections 19440 19580, 19581 and 19562 19582, Business and Professions Code.

Reference: Sections 19580, 19581 and 19582, Business and Professions Code;

Section 337f, g and h, Penal Code.

PROPOSED TEXT AMENDMENT

Article 15. Veterinary Practices Rule 1844. Authorized Medication.

Consistent with the intent of these rules, drug substances and medications authorized by the Board for use may be administered to safeguard the health of the horse entered to race provided that:

- (a) No person shall administer a drug substance to any horse entered to race except upon authorization of the official veterinarian in conformance with these rules.
- (b) No drug substance, other than authorized bleeder medication, shall be administered to a horse entered to race within 24 hours of the race in which entered.
- (c) Not more than one approved non-steroidal anti-inflammatory drug substance (NSAID) may be administered to a horse which that is entered to race and shall be only one of the following authorized drug substances:
- (1) Phenylbutazone in a dosage amount that the test sample shall contain not more than 5 micrograms of the drug substance per milliliter of blood plasma or serum.
- (2) Flunixin in a dosage amount that the test sample shall contain not more than 0.5 micrograms 20 nanograms of the drug substance per milliliter of blood plasma or serum.
- (3) Ketoprofen in a dosage amount that the test sample shall contain not more than 50 nanograms 10 nanograms of the drug substance per milliliter of blood plasma or serum.
- (4) Metabolites or analogues of approved NSAIDs may be present in post race test samples.
- (d) If the official chemist reports that a blood test sample contains an authorized NSAID in excess of the limit for that drug substance under this rule, the official veterinarian shall, in

conjunction with the veterinarian who administered or prescribed the authorized drug substance, establish a dosage amount or time of administration of the drug substance which that will comply with the limits under this rule; or the official veterinarian may, if in his/her judgment no such reduced dosage amount or amendment to time of administration will result in a test sample level within the limits of this rule, withdraw authorization for the use of any one NSAID.

- (e) The Θ of ficial urine test samples may contain one of the following drug substances, their metabolites or analogs, in an amount that does not exceed the specified levels:
- (1) Acepromazine; 25 nanograms per milliliter
- (2) Mepivacaine; 10 nanograms per milliliter
- (3) Promazine; 25 nanograms per milliliter
- (4) Albuterol; 1 nanogram per milliliter
- (5) Atropine; 10 nanograms per milliliter
- (6) Benzocaine; 50 nanograms per milliliter
- (7) Procaine; 10 nanograms per milliliter
- (8) Salicylates; 750 micrograms per milliliter
- (9) Clenbuterol; 5 nanograms per milliliter
- (f) Official blood test samples shall not contain any of the drug substances, or their metabolites or analogs listed in subsection (e)(1)-(9).

Authority: Sections 19440, and 19562 and 19580, Business and Professions Code.

Reference: Sections 19580 and 19581, Business and Professions Code.

PROPOSED TEXT AMENDMENT

Article 15. Veterinary Practices

Rule 1845. Bleeder List. Authorized Bleeder Medication.

Approved <u>Authorized prophylactic bleeder</u> medication for the control of <u>bleeding exercised induced pulmonary hemorrhage (EIPH)</u> may be administered to a horse on the <u>Bleeder List on</u> the authorized bleeder medication list.

- (a) A horse is eligible to race with authorized bleeder medication if the licensed trainer and/or veterinarian determines it is in the horse's best interest. If a horse will race with authorized bleeder medication, form CHRB 194 (New 08/04), Authorized Bleeder Medication Notice/Request, which is hereby incorporated by reference, shall be used to notify the official veterinarian prior to entry. A horse which during or following exercise of the race is observed by the Official Veterinarian or Steward to be shedding blood from one or both nostrils or is found to have bled internally may be placed on the Bleeder List by the Official Veterinarian.
- (b) The official laboratory shall measure the specific gravity of post-race urine samples to ensure samples are sufficiently concentrated for proper chemical analysis. The specific gravity of such samples shall not be below 1.010. The official Veterinarian may require an endoscopic examination of the horse in order to confirm inclusion on the Bleeder List, and such endoscopic examination shall be conducted by a veterinarian employed by the owner or his agent in the presence of or in consultation with the Official Veterinarian subsequent to the finish of the race or exercise in which the horse has participated and bled, and must reveal hemorrhage in the lumen of the respiratory tract.

- (c) If the specific gravity of the post-race urine sample is determined to be below 1.010, or if a urine sample is not available for testing, quantitation of furosemide in serum or plasma shall then be performed. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma. The confirmation of a bleeder horse must be certified in writing by the Official Veterinarian, entered by him on the Bleeder List and a copy of such certification issued to the owner of the horse or his agent. A horse shall be removed from the Bleeder List only by the Official Veterinarian who shall enter his reason for the removal.
- (d) Once a horse is placed on the Bleeder List, A horse qualified to race with authorized bleeder medication it must shall be assigned to a pre-race security stall prior to the scheduled post time for the race in which it is entered, to start and shall remain there until it is taken to the receiving barn or to the paddock to be saddled or harnessed for the race. While in the security stall, the horse shall be in the care, custody, control and constant view of the trainer, or a licensed person assigned by the trainer. The trainer shall be responsible for the condition, care and handling of the horse while it remains in the security stall. The Oofficial Vyeterinarian may permit a horse to leave the security stall to engage in track warm-up heats prior to a race.
- (e) A Hhorse qualified for administration of bleeder medication authorized bleeder medication in accordance with these rules must be treated on the grounds of the racetrack where the horse will race no later than 4 four hours prior to post time of the race for which the horse is entered. As a condition for approval of the administration of furosemide, immediately prior to treatment, a blood sample shall be taken for testing when so directed by the Official Veterinarian. The authorized bleeder medication, furosemide, shall be administered by a single, intravenous injection only, in a dosage of not less than 150 mg. or not more than 500 mg. A horse racing with furosemide must show a detectable concentration of the drug in the post-race serum, plasma or urine sample. The veterinarian administering the bleeder medication shall notify the official veterinarian of the treatment of the horse. Such Notification shall be made using CHRB form 36, Bleeder Treatment Report, which is hereby incorporated by reference, not later than two hours prior to post time of the race for which the horse is entered. Upon the request of a Board representative, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication, which may then be submitted for testing.
- (f) Approved bleeder medication shall be administered by a veterinarian employed by the owner of the horse or by his agent at a maximum dose of 250 mg (5ml) to be given to any horse and at the time approved by the Official Veterinarian no later than four (4) hours prior to post time pursuant to the Board's instructions. This drug shall be given only by the intravenous (IV) route utilizing a single injection. The veterinarian administering the bleeder medication shall notify the Official Veterinarian of the treatment of the horse. Notification shall be made no later than 2 hours prior to post time of the race for which the horse is entered. A horse placed on the official authorized bleeder medication list must remain on the list unless the licensed trainer and/or veterinarian requests that the horse be removed. The request must be made using CHRB form 194 (New 08/04), and must be submitted to the official veterinarian prior to the time of entry. A horse removed from the authorized bleeder medication list may not be placed back on the list for a period of 60 calendar days unless the official veterinarian determines it is detrimental to the welfare of the horse. If a horse is removed from the authorized bleeder medication list a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.
- (g) While in the security stall, the horse shall be in the care, custody and control of the trainer or a licensed person assigned by him and the trainer shall be responsible for the condition, care and handling of the horse while it remains in the security stall. If the official veterinarian observes a

horse bleeding externally from one or both nostrils during or after a race or workout, and determines such bleeding is a direct result of EIPH, the horse shall be ineligible to race for the following periods:

- First incident—14 days;
- Second incident within 365-day period—30 days;
- Third incident within 365-day period—180 days;
- Fourth incident within 365-day period—barred for racing lifetime.

For the purposes of counting the number of days a horse is ineligible to run, the day after the horse bled externally is the first day of such period. The voluntary administration of authorized bleeder medication without an external bleeding incident shall not subject a horse to the initial period of ineligibility as defined under this subsection.

(h) A bleeder horse shipped into this State from another jurisdiction may be automatically placed on the Bleeder List provided that the jurisdiction from which it was shipped qualified it as a bleeder using criteria satisfactory to this State and provided a current certificate setting forth its qualifications as a bleeder is presented to the Official Veterinarian.

Authority: Sections 19440 and 19562, Business and Professions Code.

Reference: Sections 19580 19440 and 19581 19562, Business and Professions Code.

NOTICE OF PROPOSAL TO ADD

Title 4, Division 4, California Code of Regulations Rule 1843.6. Total Carbon Dioxide Testing

The California Horse Racing Board (Board) proposes to add the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to add Rule 1843.6, Total Carbon Dioxide Testing. The proposed Rule 1843.6 provides that at the direction of the official veterinarian blood samples may be taken from a horse for the purpose of obtaining carbon dioxide (TCO₂) testing. Blood samples may be taken pre-race or post-race from any horse on a facility under the jurisdiction of the Board. Should an owner, trainer, or other person responsible for the horse refuse or fail to permit the taking of a sample, he shall be in violation of Board Rule 1930, Obedience to Security Officers and Public Safety Officers, and the horse will be declared ineligible to race. Rule 1843.6 provides that TCO₂ levels shall not exceed 37.0 millimoles. If the official laboratory reports TCO₂ in excess of the maximum levels, the penalty for administrative purposes shall be considered a Class three-medication violation. Blood samples collected for TCO₂ testing shall not be subject to the provisions of Board Rule 1859.25, Split Sample Testing.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:30 a.m., Thursday, January 20, 2005, or as soon after that a business before the Board will permit, at the Arcadia City Hall, 240 West Huntington Drive, Arcadia, California. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments abut the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m.** on **January 3, 2005**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6397

Fax: (916) 263-6042

Email: HaroldA@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, 19580 and 19582.5 Business and Professions (B&P) Code. Reference: 19581 and 19582, B&P Code.

B&P Code Sections 19420, 19440, 19580 and 19582.5 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19581 and 19582, B&P Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions (B&P) Code Section 19581 provides that no substance of any kind shall be administered by any means to a lorse after it has been entered to race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. B&P Code Section 19582 states violations of Section 19581 are punishable as set forth in regulations adopted by the Board. In addition, the Board may classify violations of Section 19581 based upon each class of prohibited drug substances, and may provide for the suspension of a license for not more than three years. Board regulations prohibit the administration of any substance within 48 hours of a race except for specifically authorized substances. Alkalizing agents are not among the authorized substances, so their administration would be a violation of Board rules. However, carbon dioxide is natural to the horse, so without catching someone in the act of administering an alkalizing agent within 48 hours of a race, the mere detection of carbon dioxide in equine samples would not in itself indicate wrongdoing. The proposed addition of Rule 1843.6, Total Carbon Dioxide Testing, will permit the Board to differentiate between what is natural to the horse and what is the result of an alkalizing substance by measuring the amount of TCO₂. In addition, the proposed regulation provides a classification of TCO₂ violations for administrative purposes, which would allow for penalties should excessive carbon dioxide be detected in a test sample.

Lactic acid, which is produced by intense exercise, is a factor in causing fatigue. Lactic Acid can be neutralized by the administration of an alkaline substance such as bicarbonate. This has resulted in the use of alkalizing agents, or "milkshakes," which are administered to a racehorse in an attempt to alter the performance of the horse. To determine if alkalizing substances are being administered, the Board proposes to add Rule 1843.6, Total Carbon Dioxide Testing. The proposed addition of Rule 1843.6 will allow for the taking of blood samples for the purpose of obtaining total carbon dioxide (TCO₂) concentrations from any horse on a facility under the jurisdiction of the Board. Subsection 1843.6(a) states blood samples for TCO₂ testing must be taken at the direction of the official veterinarian by a veterinarian licensed by the Board or a registered veterinary technician licensed by the Board, and under the provisions of Rule 1859,

Taking, Testing and Reporting of Samples. This will ensure samples are drawn and handled in accordance with current practice. Blood samples may be collected pre-race or post-race. TCO₂ levels are depressed by exercise, and do not return to "normal" at the same rate in all breeds of horses. It may take up to one and a half hours for TCO2 levels to recover in thoroughbreds, while standardbred horses may experience a faster recovery. Recovery levels are a factor in determining when test samples will be drawn. Thoroughbred horses are more likely to have test samples taken pre-race, while standardbred horses may have test samples taken post-race. Board Rule 1930, Obedience to Security Officers and Public Safety Officers, provides that no licensee shall willfully ignore or refuse to obey any lawful order issued by the stewards when such order is issued or given in the performance of duty. Under subsection 1843.6(c) any person responsible for a horse who refuses or fails to permit the taking of a test sample is in violation of Rule 1930 and shall have the horse declared ineligible to race. This provides consequences should such persons refuse to cooperate with an agent of the Board. Subsection 1843.6(d) states TCO₂ levels in the blood serum or plasma shall not exceed 37.0 millimoles per liter. This is an established level in several North American racing jurisdictions that regulate TCO₂. Under Subsection 1843.6(d)(3) if the official laboratory reports TCO₂ levels in excess of the maximum, the penalty for administrative purposes shall be considered a Class three-medication violation. Subsection 1843.6 states the provisions of Rule 1859.25 shall not apply to blood samples collected for TCO₂ testing. TCO₂ levels in blood serum or plasma deteriorate while the samples are in storage and begin to decline four days after collection. The time frame dictated by Rule 1859.25 for analysis of a split sample is longer than four. Adherence to this time frame would result in a normal decrease in TCO₂ in the split sample and would not be a true representation of the TCO₂ level present in the horse when the sample was taken.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: An undetermined amount of TCO₂ test samples will be taken at a cost of \$10 to \$12 each.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed addition of Rule 1843.6 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed addition of Board Rule 1843.6.

Significant effect on housing costs: none.

The adoption of the proposed regulation will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposed adoption of Rule 1843.6 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. Rule 1843.6 provides that blood samples for the purpose of TCO2 testing may be taken from any horse entered to race.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative that is considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to

Harold Coburn, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6397

E-Mail: HaroldA@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Pat Noble, Regulation Analyst Telephone: (916) 263-6033 Email: PatN@chrb.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes clearly marked — shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Harold Coburn at the address stated above. The Board will

accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's Internet address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

Rule 1843.6. Total Carbon Dioxide Testing

SPECIFIC PURPOSE OF THE REGULATION

The Board proposes to add Rule 1843.6, Total Carbon Dioxide Testing. The proposed Rule 1843.6 provides that at the direction of the official veterinarian blood samples may be taken from a horse for the purpose of obtaining carbon dioxide (TCO₂) testing. Blood samples may be taken pre-race or post-race from any horse that in on a facility under the jurisdiction of the Board. Should an owner, trainer, or other person responsible for the horse refuse or fail to permit the taking of a sample, he shall be in violation of Board Rule 1930, Obedience to Security Officers and Public Safety Officers, and the horse will be declared ineligible to race. Rule 1843.6 provides that TCO₂ levels shall not exceed 37.0 millimoles per liter of serum or plasma. If the official laboratory reports TCO₂ in excess of the maximum levels, the penalty for administrative purposes shall be considered a Class three-medication violation. Blood samples collected for TCO₂ testing shall not be subject to the provisions of Board Rule 1859.25, Split Sample Testing.

NECESSITY

Lactic acid, which is produced by intense exercise, is a factor in causing fatigue. Lactic Acid can be neutralized by the administration of an alkaline substance such as bicarbonate. This has resulted in the use of alkalizing agents, or "milkshakes," which are administered to a racehorse in an attempt to alter the performance of the horse. To determine if alkalizing substances are being administered, the Board proposes to add Rule 1843.6, Total Carbon Dioxide Testing. proposed addition of Rule 1843.6 will allow for the taking of blood samples for the purpose of obtaining total carbon dioxide (TCO₂) concentrations from any horse on a facility under the jurisdiction of the Board. Subsection 1843.6(a) states blood samples for TCO₂ testing must be taken at the direction of the official veterinarian by a veterinarian licensed by the Board or a registered veterinary technician licensed by the Board, and under the provisions of Rule 1859, Taking, Testing and Reporting of Samples. This will ensure samples are drawn and handled in accordance with current practice. Blood samples may be collected pre-race or post-race. TCO₂ levels are depressed by exercise, and do not return to "normal" at the same rate in all breeds of horses. It may take up to one and a half hours for TCO₂ levels to recover in thoroughbreds, while standardbred horses may experience a faster recovery. Recovery levels are a factor in determining when test samples will be drawn. Thoroughbred horses are more likely to have test samples taken pre-race, while standardbred horses may have test samples taken post-race. Board Rule 1930, Obedience to Security Officers and Public Safety Officers, provides that no licensee shall willfully ignore or refuse to obey any lawful order issued by the stewards when such order is issued or given in the performance of duty. Under subsection 1843.6(c) any person responsible for a horse who refuses or fails to permit the taking of a sample is in violation of Rule 1930 and shall have the horse declared ineligible to race. This provides consequences should such persons refuse to cooperate with an agent of the Board. Subsection 1843.6(d) states TCO₂ levels in the blood serum or plasma shall not exceed 37.0 millimoles per liter. This is an established level in several North American racing jurisdictions that regulate TCO₂. Under Subsection 1843.6(d)(3) if the official laboratory reports TCO₂ levels in excess of the maximum, the penalty for administrative purposes shall be considered a Class three-medication violation. Subsection 1843.6 states the provisions of Rule 1859.25 shall not apply to blood samples collected for TCO₂ testing. TCO₂ levels in blood serum or plasma deteriorate while the samples are in storage and begin to decline approximately four days after collection. The time frame dictated by Rule 1859.25 for analysis of a split sample is longer than four days. Adherence to this time frame would result in a normal decrease in TCO₂ in the split sample and would not be a true representation of the TCO₂ level present in the horse when the sample was taken.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the addition of this regulation.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT ADDITION

Article 15. Veterinary Practices Rule 1843.6. Total Carbon Dioxide Testing

- (a) At the direction of the official veterinarian, a veterinarian licensed by the Board or a registered veterinary technician licensed by the Board may collect blood sample(s) from a horse for the purpose of testing for total carbon dioxide (TCO₂) concentrations. Such blood sample(s) shall be collected under the provision of Rule 1859 of this article, and may be collected pre-race or post-race.
- (b) Any horse on a facility under the jurisdiction of the Board may be selected by the stewards or the official veterinarian for TCO₂ testing.
- (c) Any owner, trainer, or other person responsible for a horse who refuses or fails to permit the taking of test sample(s) from such horse shall be deemed in violation of Rule 1930 of this division and shall have the horse declared ineligible to race by the stewards.
- (d) TCO₂ levels in the blood serum or plasma shall not exceed:
- (1) 37.0 millimoles per liter of serum or plasma.
- (2) If the official laboratory reports TCO₂ levels in excess of 37.0 millimoles the penalty for administrative purposes shall be considered a Class three-medication violation.
- (e) The provisions of Rule 1859.25 of this article shall not apply to blood sample(s) collected for <u>TCO₂ testing.</u>

Authority: Sections 19420, 19440, 19580 and 19582.5, Business and Professions Code.

Reference: Sections 19581 and 19582, Business and Professions Code.

NOTICE OF PROPOSAL TO AMEND

Title 4, Division 4, California Code of Regulations Rule 1887. Trainer to Insure Condition of Horse

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1887, Trainer to Insure Condition of Horse. Rule 1887 requires the Board or its agents to notify a trainer of a potential positive test finding within 18 calendar days from the date the sample is taken. The proposed amendment will change the timeframe from 18 calendar days to 21 calendar days.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:30 a.m., Thursday, May 26, 2005, or as soon after that as business before the Board will permit, at the Los Alamitos Race Course, 4961 Katella Avenue, Los Alamitos, California. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on May 16, 2005. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Pat Noble, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263, 6033

Telephone: (916) 263-6033

Fax: (916) 263-6042

E-mail: PatN@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19440, 19580 and 19581, Business and Professions (B&P) Code. Reference: 19440, 19577, 19580 and 19581, B&P Code.

B&P Code Sections 19440 and 19580 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19577 and 19581, B&P Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code Section 19440 states that the Board shall have all powers necessary and proper to enable it to adopt rules and regulations for the protection of the public and the control of horse racing. B&P Code Section 19580 states that the Board shall adopt regulations to establish policies, guidelines and penalties relating to equine medication in order

to preserve and enhance the integrity of horse racing in the State. B&P Code Section 19581 states that no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race unless the Board has by regulation, specifically authorized the use of the substance and the quantity and composition thereof. B&P Code Section 19577 states that any blood or urine test sample required by the Board to be taken from a horse that is entered in any race shall be divided or taken in duplicate, if there is sufficient sample available after the initial test sample has been taken. The initial test sample shall be referred to as the official test sample and the secondary sample shall be referred to as the split sample. All samples immediately become and remain the property of the Board. The Board shall adopt regulations to ensure the security of obtaining and testing of all samples.

If the Board fails to notify a trainer of a potential positive test finding within 18 calendar days from the date the sample was taken the trainer is deemed not responsible under Rule 1887 unless it is shown by a preponderance of the evidence that the trainer administered the drug or other prohibited substance, caused the administration or had knowledge of the administration.

The Board proposes to amend Rule 1887 to extend the time to notify a trainer of a potential positive test finding from 18 calendar days to 21 calendar days.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1887 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1887 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1887 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

Rule 1887 specifies that the trainer of a horse is the absolute insurer of and responsible for the condition of the horse entered in a race and provides the timeframe for the Board or its agents to notify the trainer of a potential positive test finding.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Pat Noble, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6033

E-mail: PatN@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Harold Coburn, Regulation Analyst

Telephone: (916) 263-6397

Jacqueline Wagner, Manager Policy and Regulations Telephone: (916) 263-6041

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Pat Noble, or the alternate contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Pat Noble at the address stated above. The Board will accept

written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Pat Noble at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

Rule 1887. Trainer to Insure Condition of Horse

SPECIFIC PURPOSE OF THE REGULATIONS

Rule 1887, Trainer to Insure Condition of Horse, requires the Board or its agents notify a trainer of a potential positive test within 18 calendar days from the date the sample is taken. If the Board fails to notify the trainer within 18 calendar days the trainer is not deemed responsible under this rule unless it is shown by the preponderance of the evidence that the trainer administered the drug or other prohibited substance, caused the administration or had knowledge of the administration. The Board proposes to amend Rule 1887 to give the Board 21 calendar days to notify the trainer.

NECESSITY

The Board proposes to amend Rule 1887 to add three days to the timeframe for notifying a trainer of a potential positive test. The proposed amendment would provide 21 calendar days to notify a trainer of a potential positive test. Currently it can take up to seven days, or more if a holiday falls within the shipping process, for the laboratory to receive the test sample. The laboratory can complete their testing process in two days if the sample tests negative. However, if a potential prohibited substance is detected, depending upon the type of testing and the drug substance found in the sample, the laboratory can take up to 5 days to complete the testing process and if a new drug substance that has not previously been identified is detected, the testing process may take longer.

The Board is notified of a potential positive test finding after the laboratory completes their testing process. When unanticipated delays occur in the shipping or the laboratory testing process, the laboratory has on occasion, notified the Board on the 18th day. Typically Board employees assigned to work at the racetracks do not work on non-race days and often trainers are not at the track on non-race days. If the laboratory notifies the Board on the last day and it is a non-race day, a Board employee is required to come in on their regularly scheduled day off which results in overtime costs. The proposed amendment provides additional time for the Board to locate and notify a trainer of a potential positive finding.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the amendment to these regulations.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT AMENDMENT

Article 16. General Conduct

Rule 1887. Trainer To Insure Condition Of Horse

- (a) The trainer is the absolute insurer of and responsible for the condition of the horses entered in a race, regardless of the acts of third parties, except as otherwise provided in this article. If the chemical or other analysis of urine or blood test samples or other tests, prove positive showing the presence of any prohibited drug substance defined in Rule 1843.1 of this division, the trainer of the horse may be fined, his/her license suspended or revoked, or be ruled off. In addition, the owner of the horse, foreman in charge of the horse, groom, and any other person shown to have had the care or attendance of the horse, may be fined, his/her license suspended, revoked, or be ruled off.
- (b) Notwithstanding the above, if the Board or its agents fail to notify a trainer of a potential positive test within $\frac{18}{21}$ calendar days from the date the sample was taken, the trainer shall not be deemed responsible under this rule unless it is shown by the preponderance of the evidence that the trainer administered the drug or other prohibited substance defined in Rule 1843.1 of this division, caused the administration or had knowledge of the administration.

Authority: Sections 19440, 19580 and 19581, Business and Professions Code.

Reference: Sections 19440, 19577, 19580 and 19581, Business and Professions Code.

NOTICE OF PROPOSAL TO REPEAL

Title 4, Division 4, California Code of Regulations

Rule 1959.5. Special Sweepstakes

Rule 1959.6. Limited Sweepstakes

Rule 1959.7. Pick Seven

Rule 1959.8. Pick 6 One Pool

Rule 1976. Unlimited Sweepstakes

Rule 1976.5. Special Unlimited Sweepstakes

Rule 1976.7. Special Reserved Unlimited Sweepstakes

The California Horse Racing Board (Board) proposes to repeal the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to repeal Rule 1959.5, Special Sweepstakes, Rule 1959.6, Limited Sweepstakes, Rule 1959.7, Pick Seven, Rule 1959.8, Pick 6 One Pool, Rule 1976, Unlimited Sweepstakes, Rule 1976.5, Special Unlimited Sweepstakes and Rule 1976.7, Special Reserved Unlimited Sweepstakes.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action(s) by submitting a written request to

the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

WRITTEN COMMENTS

Any interested persons, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person identified in this notice. All written comments must be received at the Board no later than 5:00 p.m. on May 16, 2005, the final day of the written comment period. Submit comments to:

Pat Noble, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6033

Fax: (916) 263-6042

E-mail: PatN@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440 and 19590, Business and Professions (B&P) Code.

Reference: 19593 and 19594, B&P Code.

B&P Code Sections 19420, 19440 and 19590 give the Board jurisdiction and supervision over meetings in California where horse races with wagering on their results are held and authorize the Board to adopt, amend or repeal regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code Section 19420 provides that jurisdiction and supervision over meeting in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meeting is vested in the California Horse Racing Board. B&P Code Section 19440 states that the Board shall have all powers necessary and proper to enable it to adopt rules and regulations for the protection of the public and the control of horse racing. B&P Code Section 19590 provides that the Board shall adopt rules governing, permitting, and regulating pari-mutuel wagering on horse races under the system known as the pari-mutuel method of wagering. B&P Code Section 19593 states no method of betting, pool making, or wagering other than by the pari-mutuel method shall be permitted or used by any person licensed under this chapter to conduct a horse racing meeting. B&P Code Section 19594 states that any person within the inclosure where a horse racing meeting is authorized may wager on the result of a horse race held at that meeting by contributing his money to the pari-mutuel pool operated by the licensee.

As part of the Board's application process to obtain a license to conduct a horseracing meeting racing associations and racing fairs are required to designate the pari-mutuel wagering rules they intend to use during their race meeting. In 1991 the Board adopted a new pari-mutuel wager, Rule 1976.9, Pick (n) Pool. The Pick (n) Pool includes all features contained in Rule 1959.5, Special Sweepstakes, Rule 1959.6, Limited Sweepstakes, Rule 1959.7, Pick Seven, Rule 1959.8, Pick 6 One Pool, Rule 1976, Unlimited Sweepstakes, Rule 1976.5, Special Unlimited Sweepstakes and Rule 1976.7, Special Reserved Unlimited Sweepstakes. When the Pick (n) Pool became effective the racing associations and racing fairs began designating it and discontinued using the pari-mutuel wagering rules the Board proposes to repeal.

The proposed repeal of these pari-mutuel wagers will not impact the public since the racing

association and racing fairs do not offer them as a pari-mutuel wager to the public. There will be no impact on the racing associations and racing fairs because they do not use them. The proposed repeal will impact the Board to the extent that approximately 10 pages will be reduced from the Board's Rules and Regulations book.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed repeal of Rule 1959.5, 1959.6, 1959.7, 1959.8, 1976, 1976.5 and 1976.7 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed repeal of Rule 1959.5, 1959.6, 1959.7, 1959.8, 1976, 1976.5 and 1976.7 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to repeal Rule 1959.5, 1959.6, 1959.7, 1959.8, 1976, 1976.5 and 1976.7 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

Rule 1959.5, 1959.6, 1959.7, 1959.8, 1976, 1976.5 and 1976.7 are pari-mutuel wagering rules.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed action during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Pat Noble, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6033

E-mail: PatN@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Harold Coburn, Regulation Analyst

Telephone: (916) 263-6397

Jacqueline Wagner, Manager Policy and Regulations Telephone: (916) 263-6041

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Pat Noble, or the alternate contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Pat Noble at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Pat Noble at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

Rule 1959.5. Special Sweepstakes Rule 1959.6. Limited Sweepstakes

Rule 1959.7. Pick Seven

Rule 1959.8. Pick 6 One Pool

Rule 1976. Unlimited Sweepstakes

Rule 1976.5. Special Unlimited Sweepstakes

Rule 1976.7. Special Reserved Unlimited Sweepstakes

SPECIFIC PURPOSE OF THE REGULATIONS

As part of the Board's application process to obtain a license to conduct a horseracing meeting associations and fairs are required to designate all the pari-mutuel wagering rules they intend to use during their race meeting. Rule 1959.5, Special Sweepstakes, Rule 1959.6, Limited Sweepstakes, Rule 1959.7, Pick Seven, Rule 1959.8, Pick 6 One Pool, Rule 1976, Unlimited Sweepstakes, Rule 1976.5, Special Unlimited Sweepstakes and Rule 1976.7, Special Reserved Unlimited Sweepstakes are pari-mutuel wagering rules that are no longer used.

NECESSITY

In 1991 the Board adopted a new pari-mutuel wager, Rule 1976.9, Pick (n) Pool. The Pick (n) Pool includes all features contained in Rule 1959.5, Special Sweepstakes, Rule 1959.6, Limited Sweepstakes, Rule 1959.7, Pick Seven, Rule 1959.8, Pick 6 One Pool, Rule 1976, Unlimited Sweepstakes, Rule 1976.5, Special Unlimited Sweepstakes and Rule 1976.7, Special Reserved Unlimited Sweepstakes. When the Pick (n) Pool became effective the associations and fairs started designating it and discontinued using the pari-mutuel wagering rules the Board proposes to repeal.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the amendment to these regulations.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT REPEAL

Article 18. Pari-Mutuel Wagering

Rule 1959.5. Special Sweepstakes

Rule 1959.6. Limited Sweepstakes

Rule 1959.7. Pick Seven

Rule 1959.8. Pick 6 One Pool

Rule 1976. Unlimited Sweepstakes

Rule 1976.5. Special Unlimited Sweepstakes

Rule 1976.7. Special Reserved Unlimited Sweepstakes

1959.5. Special Sweepstakes.

(a) The Special Sweepstakes parimutuel pool is not a parlay and has no connection with or relation to any other parimutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator board, nor to the rules governing the distribution of such other pools.

- (b) A valid Special Sweepstakes ticket shall be evidence of a binding contract between the holder of the ticket and the racing association, and the said ticket shall constitute an acceptance of Special Sweepstakes provisions and rules contained in Article 18.
- (c) A Special Sweepstakes may be given a distinctive name to be selected by the association conducting such races, such as "SUPER 6" or "SUPER SWEEPSTAKES," subject to the approval of the Board. The Special Sweepstakes is deemed to be an extension of the daily double form of wagering.
- (d) The Special Sweepstakes parimutuel pool consists of amounts contributed for a selection for win only in each of six races designated by the association with the approval of the Board. Each person purchasing a Special Sweepstakes ticket shall designate the winning horse in each of the six races comprising the Special Sweepstakes.
- (e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Special Sweepstakes shall race as a single wagering interest for the purpose of the Special Sweepstakes parimutual pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Special Sweepstakes calculation and the selection shall not be deemed a scratch.
- (f) The Special Sweepstakes parimutuel pool shall be calculated in one of three alternative methods, as follows:

(1) Alternative One:

- (A) Sixty percent (60%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners of the six races comprising the Special Sweepstakes.
- (B) Twenty percent (20%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among holders of parimutuel tickets which correctly designate the second greatest number of official winners of the six races comprising the Special Sweepstakes.
- (C) Twenty percent (20%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among holders of parimutuel tickets which correctly designate the third greatest number of official winners of the six races comprising the Special Sweepstakes.

(2) Alternative Two:

- (A) Sixty percent (60%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners of the six races comprising the Special Sweepstakes.
- (B) Forty percent (40%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among holders of parimutuel tickets which correctly

designate the second greatest number of official winners of the six races comprising the Special Sweepstakes.

(3) Alternative Three:

- (A) Sixty percent (60%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the official winners of the six races comprising the Special Sweepstakes.
- (B) Twenty percent (20%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among holders of parimutuel tickets which correctly designate the greatest number of official winners less than six of the six races comprising the Special Sweepstakes.
- (C) Twenty percent (20%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among holders of parimutuel tickets which correctly designate the second greatest number of official winners less than six of the six races comprising the Special Sweepstakes.
- (D) In the event there is no parimutuel ticket properly issued which correctly designates the official winner in each of the six races comprising the Special Sweepstakes, the sixty percent (60%) of the parimutuel pool otherwise distributable as provided in subsection (A) of Alternative Three shall be retained by the association as a distributable amount and shall be carried over and included in the Sweepstakes parimutuel pool for the next succeeding racing date, as an additional net amount to be distributed as provided in subsection (A).
- (E) Except as provided in subsection (F), should no distribution be made pursuant to subsection
- (A) on the last day of the association's meeting, then that portion of the distributable pool and all monies accumulated therein shall be distributed to holders of tickets correctly designating the most winning selections among the six races comprising the Special Sweepstakes for that day or night; provided, however, that should an association be unable to distribute such retained distributable amount carried over from any prior Special Sweepstakes pool established pursuant to subsection (A) or subsection (D) by the end of its race meeting due to cancellation of the final day(s) or night(s) of racing or any other reason, the retained distributable amount shall be carried forward to the next race meeting of such association at the same location, having a Special Sweepstakes for the same breed of horse as the racing meeting that generated the retained distributable amount, and shall be included in the Special Sweepstakes pool for the first day or night racing at such subsequent race meeting.
- (4) The method of distribution shall be selected at the discretion of the racing association at the time it files its license application with the Board.
- (g) In the event that insufficient numbers of official winners are designated to permit distribution to holders of parimutuel tickets which correctly designate the second or third greatest number of official winners, any amount not distributable shall be added to the sixty percent (60%) amount in the parimutuel pool subject to distribution to those ticket holders who designate the most official winners of the six races comprising the Special Sweepstakes. In the event there is no parimutuel ticket held which entitles any ticket holder to a distribution pursuant to subsection (f) the Special Sweepstakes shall be cancelled and all tickets refunded.

- (h) In the event a Special Sweepstakes ticket designates a selection in any one or more of the races comprising the Special Sweepstakes and that selection is scratched, excused or determined by the Stewards the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the non starting selection for all purposes, including pool calculations and payouts.
- (i) In the event of a dead heat for win between two or more horses in any Special Sweepstakes race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.
- (j) In the event that less than four of the six races comprising the special Sweepstakes are completed due to races being cancelled or declared no contest, all parimutuel tickets held on the Special Sweepstakes for that day or night shall be refunded and the Special Sweepstakes shall be cancelled in its entirety.
- (k) In the event that four or five, but not six, races comprising the Special Sweepstakes are completed as official races in accordance with the regulations of the Board, one hundred percent (100%) of the net amount in the parimutuel pool shall be subject to distribution among holders of parimutuel tickets which correctly designate the most winners in the completed races of the Special Sweepstakes.
- (1) No parimutuel ticket for the Special Sweepstakes pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the six races comprising the Special Sweepstakes, except for such refunds on Special Sweepstakes parimutuel tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Special Sweepstakes pool or the number or amount of tickets selecting winners of Special Sweepstakes races until such time as the Stewards have determined the last race comprising the Special Sweepstakes to be official.

Authority: Sections 19440 and 19590, Business and Professions Code.

Reference: Section 19594, Business and Professions Code.

1959.6. Limited Sweepstakes.

- (a) The Limited Sweepstakes parimutuel pool is not a parlay and has no connection with or relation to any other parimutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.
- (b) A Limited Sweepstakes parimutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the Limited Sweepstakes provisions and rules contained in Article 18.
- (c) A Limited Sweepstakes may be given a distinctive name by the association conducting the meeting, subject to approval of the Board.
- (d) The Limited Sweepstakes parimutuel pool consists of amounts contributed for a selection for win only in each of six races designated by the association with the approval of the Board. Each person purchasing a Limited Sweepstakes ticket shall designate the winning horse in each of the six races comprising the Limited Sweepstakes.

- (e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Limited Sweepstakes shall race as a single wagering interest for the purpose of the Limited Sweepstakes parimutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race the entry or the field selection shall remain as the designated selection to win in that race for the Limited Sweepstakes calculation and the selection shall not be deemed a scratch.
- (f) Except as provided by subsections (i) and (j), the Limited Sweepstakes parimutuel pool shall be calculated as follows:
- (1) Fifty percent (50%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the official winner in each of the six races comprising the Limited Sweepstakes.
- (2) Fifty percent (50%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners, but less than six, among the six races comprising the Limited Sweepstakes.
- (3) In the event there is no parimutual ticket properly issued which correctly designates the official winner in each of the six races comprising the Limited Sweepstakes, the fifty percent (50%) of the parimutual pool shall not be distributed as provided in subsection (f)(1) but shall be retained by the association as distributable amounts and shall be carried over and included in the Limited Sweepstakes parimutual pool for the next succeeding racing date as an additional net amount to be distributed as provided in subsection (f)(1).
- (4) Except as provided by subsection (1), should no distribution be made pursuant to subsection (f)(1) on the last day of the association's meeting, then that portion of the distributable pool and all monies accumulated therein shall be distributed to the holders of tickets correctly designating the most winning selections among the six races comprising the Limited Sweepstakes for that day or night.
- (g) In the event a Limited Sweepstakes ticket designates a selection in any one or more of the races comprising the Limited Sweepstakes and that selection is scratched, excused or determined by the Stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payouts.
- (h) In the event of a dead heat for win between two or more horses in any Limited Sweepstakes race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.
- (i) In the event that less than four of the six races comprising the Limited Sweepstakes are completed due to races being cancelled or declared as no contest, all parimutual tickets held on the Limited Sweepstakes for that day or night shall be refunded and the Limited Sweepstakes shall be cancelled in its entirety for that day or night and any retained distributable amounts carried over from any prior Limited Sweepstakes pool pursuant to subsection (f)(3) shall be carried over to the next succeeding racing date of that meeting.

- (j) In the event that four or five, but not six, races comprising the Limited Sweepstakes are completed as official races in accordance with the regulations of the Board, one hundred percent (100%) of the net amount in the parimutuel pool for that day or night, exclusive of any retained distributable amounts carried over from any prior Limited Sweepstakes pool pursuant to subsection (f)(3), shall be subject to distribution among holders of parimutuel tickets which correctly designate the most winners in the completed races of the Limited Sweepstakes. The retained distributable amounts carried over from any prior Limited Sweepstakes pool pursuant to subsection (f)(3) shall be carried over to the next succeeding racing date of that meeting.
- (k) No parimutual ticket for the Limited Sweepstakes pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the six races comprising the Limited Sweepstakes, except for such refunds on Limited Sweepstakes tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Limited Sweepstakes pool or the number or amount of tickets selecting winners of Limited Sweepstakes races until such time as the Stewards have determined the last race comprising the Limited Sweepstakes each day to be official.
- (1) In the event that an association is unable to distribute the retained distributable amount carried over from any prior Limited Sweepstakes pool established pursuant to subsection (f)(3) by the end of its race meeting due to cancellation of the final day(s) or night(s) of racing or any other reason, the retained distributable amount shall be carried forward to the next race meeting having a Limited Sweepstakes at the same location and of the same breed of horse as the racing association that generated the retained distributable amount. The retained distributable amount shall be included in the Limited Sweepstakes pool for the first day or night of racing at the subsequent race meeting.

Authority: Sections 19440 and 19590, Business and Professions Code.

Reference: Sections 19590, 19593 and 19594, Business and Professions Code.

1959.7. Pick Seven.

- (a) The Pick Seven parimutuel pool is not a parlay and has no connection with or relation to any other parimutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.
- (b) A Pick Seven parimutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the Pick Seven provisions and rules contained in Article 18.
- (c) A Pick Seven may be given a distinctive name by the association conducting the meeting.
- (d) The Pick Seven parimutuel pool consists of amounts contributed for a selection for win only in each of seven races comprising the Pick Seven. Each person purchasing a Pick Seven ticket shall designate the winning horse in each of the seven races comprising the Pick Seven.
- (e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Pick Seven shall race as a single wagering interest for the purpose if the Pick Seven parimutual pool calculations and payouts to the public. If any part of either an entry or the field racing as a single wagering interest is a starter in a race the entry or the field selection—shall remain as the designated selection to win in that race for the Pick Seven

calculation. A scratch of any horse which is part of a coupled entry or the field shall not constitute a scratch of the single wagering interest.

- (f) Except as provided by subsections (i) and (j), the Pick Seven parimutuel pool shall be calculated as follows:
- (1) Fifty percent (50%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners in each of the seven races comprising the Pick Seven.
- (2) Fifty percent (50%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the next greatest number of official winners among the seven races comprising the Pick Seven.
- (3) In the event there is no parimutuel ticket held which entitles any ticket holder to a distribution pursuant to subsection (f) the Pick Seven shall be canceled and all tickets refunded.
- (g) In the event a Pick Seven ticket designates a selection in any one or more of the races comprising the Pick Seven and that selection is scratched, excused or determined by the Stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payouts.
- (h) In the event of a dead heat for win between two or more horses in any Pick Seven race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.
- (i) If less than five of the seven races comprising the Pick Seven are completed due to races being canceled or declared as no contest, all parimutuel tickets held on the Pick Seven shall be refunded and the Pick Seven shall be canceled.
- (j) In the event that five, or six, but not seven, races comprising the Pick Seven are completed as official races in accordance with the regulations of the Board, one hundred percent (100%) of the net amount in the parimutuel pool shall be subject to distribution among holders of parimutuel tickets which correctly designate the most winners in the completed races of the Pick Seven.
- (k) No parimutuel ticket for the Pick Seven pool shall be sold, exchanged or canceled by the association after the time of the closing of wagering in the first of the seven races comprising the Pick Seven, except for such refunds on Pick Seven tickets as required by this regulation. No person shall disclose the number of tickets sold in the Pick Seven pool or the number or amount of tickets selecting winners of Pick Seven races until such time as the Stewards have determined the last race comprising the Pick Seven each day to be official.

Authority: Sections 19440 and 19590, Business and Professions Code.

Reference: Sections 19590, 19593 and 19594, Business and Professions Code.

- (a) The Pick 6 One is a separate parimutuel pool established on six consecutive races designated by the association. The pool consists of amounts wagered on the horse to finish first in each of the six races. It is not a parlay and has no connection with or relation to other pools conducted by the association, except for the provisions in subsection (i), or to rules governing the distribution of other pools. The "net Pick 6 One pool" refers to the amount wagered into the pool on a given day less the statutory parimutuel takeout.
- (b) A valid Pick 6 One ticket shall be evidence of a binding contract between the holder of the ticket and the association and shall constitute an acceptance of Pick 6 One provisions and rules contained in this Article.
- (c) If no Pick 6 One combination selects all six of the first place finishers, then the net Pick 6 One pool is distributed as follows:
- (1) A specified percentage of the pool shall be designated as the Standard Carryover and that portion of the pool shall be carried forward to the next performance with a Pick 6 One. The percentage shall be specified in the association's application for license and shall be no greater than 75 percent nor less than 60 percent.
- (2) The remainder of the pool shall be distributed as a single price pool to tickets with combinations with the greatest number of first place finishers.
- (d) If more than one Pick 6 One combination selects all six first-place finishers, a percentage of the net Pick 6 One pool specified by the association in their license application that is no less than 5 percent and no greater than 20 percent, shall be designated as the Pick 6 One Special Carryover and carried forward to the next performance with a Pick 6 One pool. The net pool, less the Special Carryover, shall be distributed as follows:
- (1) A specified percentage of the pool, not less than 60 percent and not more than 75 percent, shall be distributed to tickets that select all six of the first place finishers in the Pick 6 One. The percentage shall be designated in the license application and shall be equal to the percentage specified in (c)(1). This percentage of the pool and the Standard Carryover, if any, shall be distributed as a single price pool to all of the tickets with combinations selecting the six first place finishers in the Pick 6 One.
- (2) The remainder shall be distributed as a single price pool to tickets with combinations with the second greatest number of first place finishers.
- (e) If there is only one combination selecting all six first place finishers, the net Pick 6 One pool shall be distributed as follows:
- (1) The ticket containing the one combination with all six first place finishers shall receive the percentage of the net Pick 6 One pool specified in (c)(1) and 100 percent of the Pick 6 One Standard and Special Carryovers.
- (2) The remainder shall be distributed as a single price pool to tickets selecting the next greatest number of first place finishers.
- (f) If four or five but not six races are completed, the net pool, less any carryovers, shall be distributed as a single price pool to tickets selecting the greatest number of first place finishers.

- (g) The pool shall be canceled and all wagers for that day refunded if three or more races are canceled.
- (h) If a dead heat for first occurs in any of the races:
- (1) Coupled horses or horses coupled to constitute the field, the pool shall be distributed as if a dead heat did not occur.
- (2) Horses representing two or more betting interests, all such horses in the dead heat shall be considered as winning horses for the purpose of calculating the pool.
- (i) If a ticket designated a selection that was scratched, excused or determined by the Stewards to be a nonstarter in the race, the association may designate the actual favorite, which is determined by the amounts wagered in the win pool at the close of wagering on that race, or may allow patrons the option of selecting an alternate betting interest. The actual favorite or the alternate shall be substituted for the nonstarting selection for all purposes. If the association elects to designate the favorite and the win pool total is identical for two or more horses, the horse with the lowest program number shall be used. The totalizator shall produce written reports at the end of each race showing each of the wagering combinations that had substituted selections which became winners as a result of the substitution in addition to the normal winning combination.
- (j) After wagering closes on the first race comprising the Pick 6 One no ticket shall be sold, exchanged or canceled.
- (k) The totalizator shall be programmed to suppress all information related to the Pick 6 One wagering activity until the end of the final race comprising the Pick 6 One. The only exception is that the total amount of the Pick 6 One pool at the close of wagering may be disclosed. Providing any other information is strictly prohibited.
- (1) The pool and any carryover shall be distributed in full on the last Pick 6 One performance of the meet or split meet as follows:
- (1) If no combination selects all six first place finishers, 75% of the pool and carryovers shall go to ticket(s) with the greatest number of finishers and 25% to the second greatest number.
- (2) If more than one combination selects all six first place finishers the percentage in (c)(1) and 100% of the carryovers shall go to those tickets. The remainder shall go to ticket(s) with the second greatest number of first place finishers.
- (3) If only one combination selects all six first-place finishers see subsection (e).
- (m) If, for any reason, the Pick 6 One Standard and Special carryovers must be carried over to the next meet or split meet, the carryovers shall be deposited in an interest bearing account approved by the Board. The carryovers plus accrued interest shall be carried forward to the Pick 6 One pool on a date designated by the association, subject to Board approval.

Authority: Sections 19440 and 19590, Business and Professions Code.

Reference: Sections 19440, 19590 and 19593, Business and Professions Code.

1976. Unlimited Sweepstakes.

- (a) The Unlimited Sweepstakes parimutuel pool is not a parlay and has no connection with or relation to any other parimutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.
- (b) An Unlimited Sweepstakes parimutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the Unlimited Sweepstakes provisions and rules contained in Article 18.
- (c) An Unlimited Sweepstakes may be given a distinctive name by the association conducting the meeting, subject to approval of the Board.
- (d) The Unlimited Sweepstakes parimutuel pool consists of amounts contributed for a selection for win only in each of nine races designated by the association with the approval of the Board. Each person purchasing an Unlimited Sweepstakes ticket shall designate the winning horse in each of the nine races comprising the Unlimited Sweepstakes.
- (e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Unlimited Sweepstakes shall race as a single wagering interest for the purpose of the Unlimited Sweepstakes parimutual pool calculations and payouts to the public. However if any part of either an entry or the field racing as a single wagering interest is a starter in a race the entry or the field selection shall remain as the designated selection to win in that race for the Unlimited Sweepstakes calculation and the selection shall not be deemed a scratch.
- (f) The Unlimited Sweepstakes parimutue I pool shall be calculated as follows:
- (1) One hundred percent (100%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the official winner in each of the nine races comprising the Unlimited Sweepstakes.
- (2) In the event there is no parimutuel ticket properly issued which correctly designates the official winner in each of the nine races comprising the Unlimited Sweepstakes, twenty five percent (25%) of the net amount in the parimutuel pool shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Unlimited Sweepstakes, and the remaining seventy five percent (75%) of the net amount in the parimutuel pool shall not be distributed as provided above but shall be retained by the association as distributable amounts and shall be carried over and included in the Unlimited Sweepstakes parimutuel pool for the next succeeding racing date as an additional net amount to be distributed as provided in subsection (f)(1).
- (g)(1) Except as provided in subsection (k) and subsection (m), should no distribution be made pursuant to subsections (f)(1), then the distributable pool and all monies accumulated therein shall be carried over until that amount equals or exceeds five million dollars (\$5,000,000) or such lesser amount as the racing association designates to the Board at the time it files its license application with the Board.
- (2) Once the pool and all monies accumulated therein equals or exceeds five million dollars, or such lesser amount designated by the racing association pursuant to subsection (g)(1), that

amount shall be distributed on the next racing day as provided in subsection (f)(1); but if no holder of parimutuel tickets correctly designates the official winner in each of the nine races comprising the Unlimited Sweepstakes, then seventy five percent (75%) of the pool shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Unlimited Sweepstakes. The remaining twenty five percent (25%) of the pool shall be distributed to those holders of parimutuel tickets which correctly designate the next greatest number of official winners.

- (h) In the event an Unlimited Sweepstakes ticket designates a selection in any one or more of the races comprising the Unlimited Sweepstakes and that selection is scratched, excused or determined by the Stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payouts.
- (i) In the event of a dead heat for win between two or more horses in any Unlimited Sweepstakes race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.
- (j)(1) In the event that all nine races comprising the Unlimited Sweepstakes are cancelled or declared as no contest, all parimutual tickets held on the Unlimited Sweepstakes for that day or night shall be refunded and the Unlimited Sweepstakes shall be cancelled in its entirety for that day or night and any retained distributable amounts carried over from any prior Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.
- (2) In the event that fewer than nine, but no more than three, races comprising the Unlimited Sweepstakes are completed due to the cancellation of one or more races or the Stewards declaring one or more races as no contest, the pool for that racing day shall be refunded and the Unlimited Sweepstakes shall be cancelled in its entirety as provided in subsection (j)(1).
- (3) In the event that fewer than nine, but no fewer than four, races comprising the Unlimited Sweepstakes are completed due to the cancellation of one or more races or the Stewards declaring one or more races as no contest, one hundred percent (100%) of the net amount in the parimutuel pool for that day or night, exclusive of any retained distributable amounts carried over from any prior Unlimited Sweepstakes pool pursuant to subsection (f)(2), shall be subject to distribution among holders of parimutuel tickets which correctly designate the most winners in the completed races of the Unlimited Sweepstakes. The retained distributable amounts carried over from any prior Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.
- (k) (1) Should no distribution be made pursuant to subsection (f)(1) on the last day of the association's race meeting, then the distributable pool and all monies accumulated therein shall be distributed on that day. Seventy five percent (75%) of the pool shall be distributed among holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Unlimited Sweepstakes. The remaining twenty five percent (25%) of the pool shall be distributed to those holders of parimutuel tickets which correctly designate the next greatest number of official winners.
- (2) In the event that an association is unable to distribute the retained distributable amount carried over from any prior Unlimited Sweepstakes pool established pursuant to subsection (f)(2) by the end of its race meeting due to cancellation of the final day(s) or night(s) of racing or any

other reason, the retained distributable amount shall be carried forward to the next race meeting having an Unlimited Sweepstakes at the same location and of the same breed of horse as the racing association that generated the retained distributable amount. The retained distributable amount shall be included in the Unlimited Sweepstakes pool for the first day or night of racing at the subsequent race meeting.

- (1) No parimutuel ticket for the Unlimited Sweepstakes pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the nine races comprising the Unlimited Sweepstakes, except for such refunds on Unlimited Sweepstakes tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Unlimited Sweepstakes pool or the number or amount of tickets selecting winners of Unlimited Sweepstakes races until such time as the Stewards have determined the last race comprising the Unlimited Sweepstakes each day to be official.
- (m) The racing association may, at its election, designate to the Board, at the time it files its license application with the Board, one or more racing days (nights) during its racing meeting on which the retained distributable amount carried over from any prior Unlimited Sweepstakes pool established pursuant to subsection (f)(2), shall be distributed as provided in subsection (g)(2), even though the retained amount is less than the amount specified in or designated by the racing association pursuant to subsection (g)(1).

Authority: Sections 19420, 19440 and 19590, Business and Professions Code.

Reference: Section 19590, Business and Professions Code.

1976.5. Special Unlimited Sweepstakes.

- (a) The Special Unlimited Sweepstakes parimutuel pool is not a parlay and has no connection with or relation to any other parimutuel pool conducted by the association, nor to any win, place and show pool shown on the totalizator, nor to the rules governing the distribution of such other pools.
- (b) A Special Unlimited Sweepstakes parimutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the Special Unlimited Sweepstakes provisions and rules contained in Article 18.
- (c) A Special Unlimited Sweepstakes may be given a distinctive name by the association conducting the meeting, subject to prior approval of the Board.
- (d) The Special Unlimited Sweepstakes parimutuel pool consists of amounts contributed for a selection for win only in each of nine races designated by the association with the approval of the Board. Each person purchasing a Special Unlimited Sweepstakes ticket shall designate the winning horse in each of the nine races comprising the Special Unlimited Sweepstakes.
- (e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Special Unlimited Sweepstakes shall race as a single wagering interest for the purpose of the Special Unlimited Sweepstakes parimutual pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Special Unlimited Sweepstakes calculation and the selection shall not be deemed a scratch.

- (f) The Special Unlimited Sweepstakes parimutuel pool shall be calculated as follows:
- (1) One hundred percent (100%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the official winner in each of the nine races comprising the Special Unlimited Sweepstakes.
- (2) In the event there is no parimutuel ticket properly issued which correctly designates the official winner in each of the nine races comprising the Special Unlimited Sweepstakes, fifteen percent (15%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders, but not including any amounts carried over from any prior day or night, shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in the nine races comprising the Special Unlimited Sweepstakes, an additional fifteen percent (15%) of such net amount in the parimutuel pool shall be distributed among the holders of parimutuel tickets which correctly designate the next greatest number of official winners in the nine races, and the remaining seventy percent (70%) of the net amount in the parimutuel pool shall not be distributed as provided above but shall be retained by the association as distributable amounts and shall be carried over and included in the Special Unlimited Sweepstakes parimutuel pool for the next succeeding racing date as an additional net amount to be distributed as provided in subsection (f)(1).
- (g)(1) Except as provided in subsection (k), should no distribution be made pursuant to subsection (f)(1), then the distributable pool and all monies accumulated therein shall be carried over until that amount equals or exceeds a maximum amount to be specified in the association's license application. That maximum amount shall not exceed five million dollars (\$5,000,000).
- (2) Once the pool and all monies accumulated therein equals or exceeds the maximum amount specified pursuant to subsection (g)(1), that amount shall be distributed on the next racing day as provided in subsection (f)(1); but if no holder of parimutual tickets correctly designates the official winner in each of the nine races comprising the Special Unlimited Sweepstakes, then seventy percent (70%) of the pool shall be distributed among the holders of parimutual tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Special Unlimited Sweepstakes, fifteen percent (15%) shall be distributed among the holders of parimutual tickets which correctly designate the second greatest number of official winners, and the remaining fifteen percent (15%) of the pool shall be distributed to those holders of parimutual tickets which correctly designate the third greatest number of official winners.
- (h) In the event a Special Unlimited Sweepstakes ticket designates a selection in any one or more of the races comprising the Special Unlimited Sweepstakes and that selection is scratched, excused or determined by the Stewards to be a non-starter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the non-starting selection for all purposes, including pool calculations and payouts.
- (i) In the event of a dead heat for win between two or more horses in any Special Unlimited Sweepstakes race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.
- (j)(1) In the event that all nine races comprising the Special Unlimited Sweepstakes are cancelled or declared as no contest, all parimutuel tickets held on the Special Unlimited Sweepstakes for that day or night shall be refunded and the Special Unlimited Sweepstakes shall be cancelled in

its entirety for that day or night and any retained distributable amounts carried over from any prior Special Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.

- (2) In the event that fewer than nine, but no more than three, races comprising the Special Unlimited Sweepstakes are completed due to the cancellations of one or more races or the Stewards declaring one or more races as no contest, the pool for that racing day shall be refunded and the Special Unlimited Sweepstakes shall be cancelled in its entirety as provided in subsection (j)(1).
- (3) In the event that fewer than nine, but no fewer than four, races comprising the Special Unlimited Sweepstakes are completed due to the cancellation of one or more races or the Stewards declaring one or more races as no contest, one hundred percent (100%) of the net amount in the parimutuel pool for that day or night, exclusive of any retained distributable amounts carried over from any prior Special Unlimited Sweepstakes pool pursuant to subsection (f)(2), shall be subject to distribution among holders of parimutuel tickets which correctly designate the most winners in the completed races of the Special Unlimited Sweepstakes. The retained distributable amounts carried over from any prior Special Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.
- (k)(1) Should no distribution be made pursuant to subsection (f)(1) on the last day of the association's race meeting, then the distributable pool and all monies accumulated therein shall be distributed on that day. Seventy percent (70%) of the pool shall be distributed among holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Special Unlimited Sweepstakes, fifteen percent (15%) of the pool shall be distributed among the holders of parimutuel tickets which correctly designate the second greatest number of official winners, and the remaining fifteen (15%) percent of the pool shall be distributed to those holders of parimutuel tickets which correctly designate the third greatest number of official winners.
- (2) In the event that an association is unable to distribute the retained distributable amount carried over from any prior Special Unlimited Sweepstakes pool established pursuant to subsection (f)(2) by the end of its race meeting due to cancellation of the final day(s) or night(s) of racing or any other reason, the retained distributable amount shall be carried forward to the next race meeting having a Special Unlimited Sweepstakes at the same location and of the same breed of horse as the racing association that generated the retained distributable amount. The retained distributable amount shall be included in the Special Unlimited Sweepstakes pool for the first day or night of racing at the subsequent race meeting.
- (1) No parimutuel ticket for the Special Unlimited Sweepstakes pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the nine races comprising the Special Unlimited Sweepstakes, except for such refunds on Special Unlimited Sweepstakes tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Special Unlimited Sweepstakes pool or the number or amount of tickets selecting winners of Special Unlimited Sweepstakes races until such time as the Stewards have determined the last race comprising the Special Unlimited Sweepstakes each day to be official.
- (m) The racing association may, at its election, designate to the Board, at the time it files its license application with the Board, one or more racing days (nights) during its racing meeting on which the retained distributable amount carried over from any prior Special Unlimited

Sweepstakes pool established pursuant to subsection (f)(2), shall be distributed as provided in subsection (g)(2), even though the retained amount is less than the amount specified in or designated by the racing association pursuant to subsection (g)(1).

Authority: Sections 19440 and 19590, Business and Professions Code.

Reference: Section 19590, Business and Professions Code.

1976.7. Special Reserved Unlimited Sweepstakes.

- (a) The Special Reserved Unlimited Sweepstakes parimutuel pool is not a parlay and has no connection with or relation to any other parimutuel pool conducted by the association, nor to any win, place and show pools shown on the totalizator, nor to the rules governing the distribution of such other pools.
- (b) A Special Reserved Unlimited Sweepstakes parimutuel ticket shall be evidence of a binding contract between the holder of the ticket and the association and the said ticket shall constitute an acceptance of the Special Reserved Unlimited Sweepstakes provisions and rules contained in Article 18.
- (c) A Special Reserved Unlimited Sweepstakes may be given a distinctive name by the association conducting the meeting, subject to approval of the Board.
- (d) The Special Reserved Unlimited Sweepstakes parimutuel pool consists of amounts contributed for a selection for win only in each of nine races designated by the association with the approval of the Board. Each person purchasing a Special Reserved Unlimited Sweepstakes ticket shall designate the winning horse in each of the nine races comprising the Special Reserved Unlimited Sweepstakes.
- (e) Those horses constituting an entry of coupled horses or those horses coupled to constitute the field in a race comprising the Special Reserved Unlimited Sweepstakes shall race as a single wagering interest for the purpose of the Special Reserved Unlimited Sweepstakes parimutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated selection to win in that race for the Special Reserved Unlimited Sweepstakes calculation and the selection shall not be deemed a scratch.
- (f) The Special Reserved Unlimited Sweepstakes parimutuel pool shall be calculated as follows:
- (1) One hundred percent (100%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the official winner in each of the nine races comprising the Special Reserved Unlimited Sweepstakes.
- (2) In the event there is no parimutuel ticket properly issued which correctly designates the official winner in each of the nine races comprising the Special Reserved Unlimited Sweepstakes, fifteen percent (15%) of the net amount in the parimutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in the nine races comprising the Special Reserved Unlimited Sweepstakes, an additional fifteen percent (15%) of the parimutuel pool shall be distributed among the holders of parimutuel tickets which correctly designate the next greatest number of official winners in the nine races, and the remaining

seventy percent (70%) of the net amount in the parimutuel pool shall not be distributed as provided above but shall be retained by the association as distributable amounts and shall be carried over and included in the Special Reserved Unlimited Sweepstakes parimutuel pool for the next succeeding racing date as an additional net amount to be distributed as provided in subsection (f)(1).

- (g)(1) Except as provided in subsection (k), the distributable pool and all monies accumulated therein shall be carried over until that amount equals or exceeds a maximum amount to be specified in the association's license application. That maximum amount shall not exceed five million dollars (\$5,000,000).
- (2) Once the pool and all monies accumulated therein equal or exceed the maximum amount specified pursuant to subsection (g)(1), that amount shall be distributed on the next racing day as provided in subsection (f)(1); but if no holder of parimutuel tickets correctly designates the official winner in each of the nine races comprising the Special Reserved Unlimited Sweepstakes, then an amount of the pool equally to one half of the maximum amount specified pursuant to subsection (g)(1) shall not be distributed as provided above, but shall be retained by the association as distributable amounts and shall be carried over and included in the Special Reserved Unlimited Sweepstakes parimutuel pool for the next succeeding racing date as an additional net amount to be distributed as provided in subsection (f)(1). The remaining amount of the pool shall be distributed as follows: seventy percent (70%) shall be distributed among the holders of parimutuel tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Special Reserved Unlimited Sweepstakes, fifteen percent (15%) shall be distributed among the holders of parimutual tickets which correctly designate the second greatest number of official winners, and the remaining fifteen percent (15%) shall be distributed to those holders of parimutuel tickets which correctly designate the third greatest number of official winners.
- (h) In the event a Special Reserved Unlimited Sweepstakes ticket designates a selection in any one or more of the races comprising the Special Reserved Unlimited Sweepstakes and that selection is scratched, excused or determined by the Stewards to be a non starter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the non-starting selection for all purposes, including pool calculations and payouts.
- (i) In the event of a dead heat for win between two or more horses in any Special Reserved Unlimited Sweepstakes race, all such horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.
- (j)(1) In the event that all nine races comprising the Special Reserved Unlimited Sweepstakes are cancelled or declared as no contest, all parimutual tickets held on the Special Reserved Unlimited Sweepstakes for that day or night shall be refunded and the Special Reserved Unlimited Sweepstakes shall be cancelled in its entirety for that day or night and any retained distributable amounts carried over from any prior Special Reserved Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.
- (2) In the event that no more than three of the nine races comprising the Special Reserved Unlimited Sweepstakes are completed due to the cancellation of one or more races or the Stewards declaring one or more races as no contest, the pool for that racing day shall be refunded

and the Special Reserved Unlimited Sweepstakes shall be cancelled in its entirety as provided in subsection (j)(1).

(3) In the event that at least four, but no more than eight races comprising the Special Reserved Unlimited Sweepstakes are completed due to the cancellation of one or more races or the Stewards declaring one or more races as no contest, one hundred percent (100%) of the net amount in the parimutuel pool for that day or night, exclusive of any retained distributable amounts carried over from any prior Special Reserved Unlimited Sweepstakes pool pursuant to subsection (f)(2), shall be subject to distribution among holders of parimutuel tickets which correctly designate the most winners in the completed races of the Special Reserved Unlimited Sweepstakes. The retained distributable amounts carried over from any prior Special Reserved Unlimited Sweepstakes pool pursuant to subsection (f)(2) shall be carried over to the next succeeding racing date of that meeting.

(k)(1) Should no distribution be made pursuant to subsection (f)(1) on the last day of the association's race meeting, then the distributable pool and all monies accumulated therein shall be distributed on that day. Seventy percent (70%) of the pool shall be distributed among holders of parimutual tickets which correctly designate the most official winners, but less than nine, in each of the nine races comprising the Special Reserved Unlimited Sweepstakes, fifteen percent (15%) of the pool shall be distributed among the holders of parimutual tickets which correctly designate the second greatest number of official winners, and the remaining fifteen percent (15%) of the pool shall be distributed to those holders of parimutual tickets which correctly designate the third greatest number of official winners.

(2) In the event that an association is unable to distribute the retained distributable amount carried over from any prior Special Reserved Unlimited Sweepstakes pool established pursuant to subsection (f)(2) by the end of its race meeting due to cancellation of the final day(s) or night(s) of racing or any other reason, the retained distributable amount shall be carried forward to the next race meeting having a Special Reserved Unlimited Sweepstakes at the same location and of the same breed of horse as the racing association that generated the retained distributable amount. The retained distributable amount shall be included in the Special Reserved Unlimited Sweepstakes pool for the first day or night of racing at the subsequent race meeting.

(l) No parimutuel ticket for the Special Reserved Unlimited Sweepstakes pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the nine races comprising the Special Reserved Unlimited Sweepstakes, except for such refunds on Special Reserved Unlimited Sweepstakes tickets as required by this regulation, and no person shall disclose the number of tickets sold in the Special Reserved Unlimited Sweepstakes pool or the number or amount of tickets selecting winners of Special Reserved Unlimited Sweepstakes races until such time as the Stewards have determined the last race comprising the Special Reserved Unlimited Sweepstakes each day to be official.

Authority: Sections 19420, 19440 and 19590, Business and Professions Code.

Reference: Section 19590. Business and Professions Code.

NOTICE OF PROPOSAL TO AMEND

Title 4, Division 4, California Code of Regulations Rule 1976.9. Pick (n) Pool

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1976.9, Pick (n) Pool, a pari-mutuel wagering rule. The proposed amendment provides that if the condition of the turf course warrants a change of racing surface in a race that is included in a Pick (n), and the public was not informed before the close of wagering on the Pick (n), the race will be declared as no contest by the stewards for the purposes of the Pick (n) Pool. The proposed amendment will also permit the totalizator to provide information pertaining to possible Pick (n) payouts for each of the runners when the last race comprising the Pick (n) is the only race remaining to be run. All references to a single price pool were changed to a win pool. The change is for consistency with other pari-mutuel wagers and does not change any provision of the rule.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:30 a.m., Thursday, May 26, 2005, or as soon after that as business before the Board will permit, at the Los Alamitos Race Course, 4961 Katella Avenue, Los Alamitos, California. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENTS

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m.** on **May 23, 2005**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Pat Noble, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6033

Fax: (916) 263-6042

E-mail: PatN@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19590, Business and Professions (B&P) Code. Reference: 19440, 19590 and 19593, B&P Code.

B&P Code Sections 19440 and 19590 give the Board jurisdiction and supervision over meetings in California where horse races with wagering on their results are held and authorize the Board to adopt, amend or repeal regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code Section 19440 states that the Board shall have all powers necessary and proper to enable it to adopt rules and regulations for the protection of the public and the control of horse racing. B&P Code Section 19590 provides that the Board shall adopt rules governing, permitting, and regulating pari-mutuel wagering on horse races under the system known as the pari-mutuel method of wagering. B&P Code Section 19593 states no method of betting, pool making, or wagering other than by the pari-mutuel method shall be permitted or used by any person licensed under this chapter to conduct a horse racing meeting.

Rule 1976.9, Pick (n) Pool, is a pari-mutuel wager that requires the selection of the first-place finisher in each race included in the Pick (n). The minimum number of races required for a Pick (n) is four and the maximum number allowed is ten. At the time an association files their application for license to conduct a horse racing meeting they designate the pari-mutuel wagers they will offer during their race meeting. If Rule 1976.9 is designated the association also designates the number of races that will comprise the Pick (n). Rule 1976.9 prohibits the totalizator from providing any information that covers combinations, amounts wagered on specific combinations, number of tickets sold, or the number of live ticks remaining. The only information that can be provided under the rule is the total amount of the net pool at the close of Pick (n) wagering. The Board proposes to amend the rule to permit the totalizator to provide information pertaining to possible Pick (n) payouts for each of the runners when the last race of the Pick (n) is the only race remaining to be run.

The Board also proposes to add a provision to address changes in racing surfaces. If the condition of the turf course warrants a change of racing surface in a race that is included in the Pick (n) and the change was not announced to the public before the close of wagering on the Pick (n) Pool, the stewards will declare that race as no contest for the purposes of the Pick (n) Pool and the calculation of the pool will be pursuant to subsection (b) of Rule 1976.9.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment of Rule 1976.9 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1976.9 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1976.9 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed action during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Pat Noble, Regulation Analyst California Horse Racing Board 1010 Hurley Way, Suite 300 Sacramento, CA 95825 Telephone: (916) 263-6033

E-mail: PatN@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Harold Coburn, Regulation Analyst

Telephone: (916) 263-6397

Jacqueline Wagner, Manager Policy and Regulations Telephone: (916) 263-6041

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Pat Noble, or the alternate contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Pat Noble at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Pat Noble at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

Rule 1976.9. Pick (n) Pool

SPECIFIC PURPOSE OF THE REGULATIONS

Rule 1976.9, Pick (n) Pool, is a pari-mutuel wager that requires the selection of the first-place finisher in each race that is included in the Pick (n). The minimum number of races required for a Pick (n) is four and the maximum number allowed is ten. At the time an association files their application for license to conduct a horse racing meeting they designate the pari-mutuel wagers they will offer during their race meeting. If Rule 1976.9 is designated the association also designates the number of races that will comprise the Pick (n). Rule 1976.9 prohibits the totalizator from providing any information that covers combinations, amounts wagered on specific combinations, number of tickets sold, or the number of live tickets remaining. The only information that can be provided under the rule is the total amount of the net pool at the close of Pick (n) wagering. The Board proposes to amend the rule to permit the totalizator to provide information pertaining to possible Pick (n) payouts for each of the runners when the last race of the Pick (n) is the only race remaining to be run.

The Board also proposes to add a provision to address changes in racing surfaces. If the condition of the turf course warrants a change of racing surface in a race that is included in the Pick (n) and the change was not announced to the public before the close of wagering on the Pick (n) Pool, the stewards will declare that race as no contest for the purposes of the Pick (n) Pool and the calculation of the pool will be pursuant to subsection (b) of Rule 1976.9.

NECESSITY

Patrons are interested in being informed as quickly as possible of the status of their wager when they place a Pick (n) wager. The proposed amendment to permit information regarding possible Pick (n) payouts for each of the runners when the last race of the Pick (n) is the only race remaining to be run allows patrons to know as soon as possible whether a carryover has occurred, and if they are still in the running for a large payout they may decide to wager on other races.

Patrons have expressed dissatisfaction when a racing surface change is made that was not announced before the close of wagering on the Pick (n) because after wagering closes a patron cannot make a change to their wager. Handicappers, as one of their tools, predict how a horse is expected to run based on the horse's previous performances. If the patron selected a horse to win based on the horse's performance on the turf course and the race is changed to the dirt track they have no recourse and their wager must stand. The proposed amendment to declare the race as no contest, provided the racing surface change was not announced to the public before the close of wagering on the Pick (n) Pool, should reduce the patrons dissatisfaction since they would no longer be required to keep the race as part of their Pick (n) wager.

The win pool and the single price pool are one in the same. All references to a single price pool in the rule were changed to win pool. The change is for consistency with other pari-mutuel wagers and does not change any provision of the rule.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

The Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the amendment to these regulations.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purposes of the proposed regulation or would be more effective and less burdensome to affected private persons or businesses than the proposed regulation.

PROPOSED TEXT AMENDMENT

Article 18. Pari-Mutuel Wagering Rule 1976.9. Pick (n) Pool

- (a) The Pick (n) requires selection of the first-place finisher in each of a number of races designated by the association. The association shall designate the percentage of the net pool considered the major share, and the percentage of the net pool considered the minor share, if any. The number of races comprising a Pick (n) must be more than three, at least four but no greater more than ten. Subsequent changes to the Pick (n) shall be requested in writing by the association. The Board or its designated representative shall respond in writing to requests within five working days of their receipt at Board headquarters.
- (b) The major share of the net Pick (n) pool, along with the Pick (n) carryover, shall be distributed to winning wagers selecting ticket holders that selected the first-place finisher in each of the Pick (n) races, based upon the official order of finish, and the minor share of the net Pick (n) pool shall be distributed as a single price win pool to those ticket holders whose selection finished first in the second greatest number of Pick (n) races; if there are no wagers selecting the first place finisher in each of the Pick (n) races, then:
- (1) the <u>The</u> minor share of the net pool shall be distributed as a <u>single price</u> <u>win</u> pool to those ticket holders whose selection finished first in the greatest number of Pick (n) races, and
- (2) the <u>The</u> major share of the net Pick (n) pool shall be retained by the association and added to the corresponding Pick (n) pool of the next performance. The additional Pick (n) pool resulting from such a carryover shall be termed the "Pick (n) carryover."
- (c) If there is In a dead heat for first in any of the Pick (n) races involving:
- (1) <u>coupled Coupled</u> horses or horses coupled to constitute the field, the Pick (n) pool shall be distributed as if a dead heat had not occurred, or
- (2) <u>horses Horses</u> representing two or more <u>betting wagering</u> interests, all horses in the dead heat for win shall be considered winning horses in the race for the purpose of calculating to calculate the pool.
- (d) <u>Should If a betting wagering</u> interest in any of the Pick (n) races <u>be is</u> scratched, the <u>racing</u> association may designate the <u>actual</u> favorite, <u>as evidenced determined</u> by total amounts wagered in the <u>Win win pool</u> at the close of wagering on that race, or <u>may</u> allow patrons the option of selecting an alternate <u>betting</u> wagering interest. The <u>actual</u> favorite or <u>the selected</u> alternate

betting wagering interest shall be substituted for the scratched betting wagering interest for all purposes, including pool calculations. When If the racing association elects to designate has designated the actual favorite as the substitute selection, and if the Win win pool total is identical for two or more horses, favorites is identical, the horse substitute selection shall be the betting interest with the lowest program number is used. The totalizator shall produce written reports showing each of the wagering combinations with substituted betting wagering interests which that became winners as a result of the substitution, in addition to the normal winning combination, at the end of each race where substitutions occur.

- (e) The Pick (n) pool shall be canceled and all Pick (n) wagers for the individual performance shall be refunded if:
- (1) three <u>Three</u> or more races included as part of a Pick 4, Pick 5 or Pick 6 are canceled or declared "no contest"; or
- (2) four Four or more races included as part of a Pick 7, Pick 8 or Pick 9 are canceled or declared "no contest"; or
- (3) five Five or more races included as part of a Pick 10 are canceled or declared "no contest."
- (f) If at least one race included as part of a Pick (n) is canceled or declared "no contest," but fewer than the number specified in subsection (e) of this rule, the net pool shall be distributed as a single price win pool to those ticket holders whose selection finished first in the greatest number of Pick (n) races for that performance. Such distribution shall include the portion ordinarily retained for the Pick (n) carryover but not the carryover from previous performances.
- (g) The Pick (n) carryover may be capped at an amount designated by the association with Board approval. If, at the close of any performance, the amount in the Pick (n) carryover equals or exceeds the designated cap, the Pick (n) carryover it will be frozen until it is won or distributed under other provisions of this rule. After the Pick (n) carryover is frozen, 100 percent (100%) of the net pool shall be distributed to those ticket holders whose selection finished first in the greatest number of Pick (n) races for that performance.
- (h) Permission to distribute the Pick (n) carryover on a specific date and performance shall be obtained from the Board. The mandatory payout request must contain the intended date and performance for the distribution.
- (i) Should If the Pick (n) carryover be is designated for distribution on a specified date and performance in which there are no wagers selecting selects the first-place finisher in each of the Pick (n) races, the entire pool including the carryover shall be distributed as a single price win pool to those ticket holders whose selection finished first in the greatest number of Pick (n) races. The Pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:
- (1) upon With written approval from the Board as provided in subsection (h) of this rule; or
- (2) upon With written approval from the Board when there is a change in the carryover cap, a change from one type of Pick (n) wagering to another, or when the Pick (n) is discontinued; or
- (3) on On the closing performance of the meet or split meet.

- (j) If the Pick (n) carryover must be carried over to the corresponding Pick (n) pool of a subsequent meet, the carryover it shall be deposited in an interest-bearing account approved by the Board. The Pick (n) carryover plus accrued interest shall then be added to the net Pick (n) pool of the following meet on a date and performance designated by the association, with the Board approval of the Board.
- (k) With the Board approval of the Board, the association may contribute to the Pick (n) carryover a sum of money up to the amount of any designated cap.
- (l) No pari mutuel ticket for the Pick (n) pool shall be sold, exchanged or canceled after the time of the closing close of wagering in the first race of the races comprising the Pick (n), except for refunds on Pick (n) tickets required by this regulation rule.
- (m) With the exception of the total amount of the net pool at the close of Pick (n) wagering, the totalizator shall be programmed to suppress all information related to Pick (n) wagering activity until the conclusion of the final race comprising the Pick (n) pool. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. The totalizator will be programmed to suppress all information related to Pick (n) wagering activity until the conclusion of the final race except for the following:
- (l) Total amount of the net pool at the close of Pick (n) wagering.
- (2) Information regarding possible Pick (n) payouts for each of the runners when the last race of the Pick (n) pool is the only race remaining to be run.
- (n) If the condition of the turf course warrants a change of racing surface in any race of a Pick (n) pool, and such change was not announced to the public before the close of wagering on the Pick (n) pool, the stewards shall declare the race as no contest for the purposes of the Pick (n) pool. Notwithstanding subsection (f), the calculation of the Pick (n) pool with such a surface change shall be pursuant to subsection (b).

Authority: Sections 19440 and 19590, Business and Professions Code.

Reference: Sections 19440, 19590 and 19593, Business and Professions Code.